



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Mare Jean  
Building Official  
North Miami Building Department

Jennifer Walker  
Human Resources, Safety and Training  
Administrative Services Division  
Miami-Dade County Department of Regulatory & Economic Resources

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

**SUBJECT:** INQ 2024-21, Outside Employment §2-11.1(k)(2) and (j)

**DATE:** January 31, 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 possible conflicts of interest in Mare Jean's proposed outside employment.

**Facts:**

You, Mare Jean, are a Building Official in the Building Department for the City of North Miami. You have applied for the position of Chief – Unsafe Structures in the Code Compliance Division of Miami-Dade County Department of Regulatory & Economic Resources (“RER”). In this proposed role, you would have the overall responsibility of resolution of citizen complaints, enforcement of unsafe structures violations, as well as overall assistance to the public on matters related to compliance and permitting. This position also includes the overall responsibility of ensuring life safety issues are addressed in both commercial and residential properties by assessing structural and trade deficiencies, which may compromise the integrity of the structure. You indicate that your proposed role would not involve permit approvals and related matters, but will mostly entail enforcement

of unsafe structure issues, as you understand the position. You have a Florida professional engineers license<sup>1</sup> and Florida Building Code Administrator license<sup>2</sup>.

As a part of your application, you have supplied a “Recruitment Disclosure of Intent to Continue Outside Employment” form. You are seeking approval to continue to engage in outside employment as a property manager for your parents, Alica Jean and Dieudonne Jean, who own a triplex located at 373 – 375 NE 55 Terrace, Miami, Florida as well as the primary residence located at 195 NE 164 ST, Miami, Florida. As your parent’s property manager, you manage all aspects of the property including facilitating repairs and making improvements, pulling permits (if repairs or improvements requires it), collecting rent from tenants, paying all bills relating to this rental property, depositing rent monies into your personal account to facilitate paying bills, and finding new tenants. You indicate that you believe most matters which require a permit for your parent’s properties, will fall under the jurisdiction of the City of Miami, Florida. If any matter with your parent’s home requires a permit from Miami Dade County, you indicate that you will advise your supervisor of the matter and take steps needed to ensure you are not involved in any way with the permit. In addition, you also own rental property, a duplex, located in Broward County, FL. You indicate that you are the property manager for your own rental property. You also indicate that your Florida professional engineers license and Florida Building Code Administrator license are not needed for the property management work you do.

Additionally, you are seeking approval to continue to engage in outside employment as an asset manager for your parents. You disclose that this role includes managing all aspects of their affairs including buying groceries, withdrawing money from their bank, depositing money in their bank, managing medications, sometime attending doctor’s visits, running errands with them, attending some functions with them, addressing any legal matters that arises, paying all bills, managing insurance matters, managing claim matters, making payments for services rendered, and dealing with family issues and disputes. As a result, your parents would give you cash in random amounts and at inconsistent times.

Moreover, on your disclosure form that in the future, you may consider becoming a deacon of your church, Stanton Memorial Baptist Church located at 50 NE 119 ST in Miami-Dade County. A Deacon is a non-paid voluntary leadership role that is a part of the governing body of the church. The deacon role would require making decisions on the direction of

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<sup>1</sup> Florida Professional Engineer License Number 70042, issued July 8, 2009. Special qualifications: Civil, issued December 4, 2008; Structural 2, issued July 12, 2010.

<sup>2</sup> Florida Building Code Administrator license number BU1980, issued November 29, 2017.

the church and making decisions for facility improvements. Facility improvements may require permitting through Miami-Dade County Department of Regulatory & Economic Resources, your proposed department of employment. Currently you are the Tutoring Ministry Director at Stanton. This is also a non-paid voluntary role within the community service outreach ministry of the church. You indicate that Staton Memorial Baptist Church is not a county vendor; does not have any existing contracts, agreement or business engagement with the County; and does not rent space from Miami Dade County.

Lastly, you disclose that you are good friends with Eddie Rojas, Assistant Director/Building Official for the Miami-Dade County Department of Regulatory & Economic Resources.

**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 Mare Jean’s County proposed employment with Miami-Dade County Department of Regulatory & Economic Resources and his ongoing outside employment and activities as a property manager, asset manager, and potentially church deacon, as well as his friendship with Eddie Rojas, Assistant Director/Building Official.

**Analysis:**

Your inquiry involves several sections of the Miami-Dade County Ethics Code which are analyzed below:

**A. Outside Employment**

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.”<sup>3</sup>

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

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<sup>3</sup> 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 his private interests and the performance of his public duties. §112.313(7)(a), Fla. Stat. (2017).

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.

You own a duplex (two rental units) in Broward County, Florida and your parents own a triplex (three rental units) within the City of Miami, Miami Dade County, Florida. Your work as the property manager for all five (5) units, is considered outside employment and the COE has previously held that County employees who manage 3 or more rental units must seek permission to engage in outside employment, file the required permission, and annual disclosure forms. *See* RQO 06-48, INQ 17-64, INQ 18-222, and INQ 23-04. We recognize that you are not regularly paid for your work as property manager, however a County employee who performs a personal service for a family business, and that service is customarily compensated, is engaged in outside employment even if she is not actually compensated. *See* INQ 13-34.

The County Ethics Code provides that 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." *See* INQ 22-44 (quoting RQO 17-03). However, Support services to your parents to help them with day-to-day life needs is generally not considered employment as it is not the type of work that is traditionally compensated for when provided by a family member. Additionally, financial gifts from your parents are not reportable under the Miami Dade Ethics Code section 2-11.1(e) (2) (b)

Generally, uncompensated outside employment for a traditional nonprofit entity is not considered outside employment. *Id.* Moreover, volunteer work that is not compensated for is not considered outside employment. *See* INQ 09-84, INQ 14-148, INQ 15-138, and INQ 18-226. Multiple factors are considered when determining whether service with a non-profit organization is considered outside employment, including: (a) whether the person founded the non-profit; (b) whether the person serves as the Executive Director or President, or in some other office; (c) whether the person is responsible for the non-profit's day-to-day functioning or activities; (d) whether the person receives any form of compensation for his or her service to the non-profit; and, (e) whether the person has significant time commitments as part of his or her service to the non-profit. *See* INQ 22-44; *see also* RQO 17-03.

Your current and potential future roles Stanton Memorial Baptist Church are unpaid voluntarism. From the information provided and as is readily available to this writer from the church website<sup>4</sup>, you did not start the church, you are not the president, executive director, or pastor of the church, you are not and will not (in your potential future role) be responsible for the day-to-day functioning or activities of the church, and you will not be compensated for your role. In INQ 18-264, COE staff opined that the Chief of Staff to Miami-Dade County Board of County Commissioner's Vice Chair could serve as a volunteer Trustee of her Church, as it was nonprofit entity, as long as she does not appear in front of any County board or agency to make a presentation seeking any benefit on behalf of the entity, or, in any other way, exploit her official position with the County to benefit the nonprofit. Similarly, in INQ 23-151, COE staff opined that a County employee's volunteer service on the Decade Advisory Board to the Secretariat and Governing Bodies of the Intergovernmental Oceanographic Commission of the United Nations Educational Scientific and Cultural Organization would not constitute outside employment. In this matter, your current and potential future role with your church would not be considered outside employment.

#### B. Exploitation of Official Position

With regard to your long-standing friendship with Edward Rojas, the County Ethics Code does not explicitly address nepotism. See RQO 01-78; INQ 22-139; INQ 22-89; INQ 22-03. However, Section 2-11.1(g) of the County Ethics Code provides that no County employee "shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or others," unless expressly permitted by ordinance. This section has been interpreted to mean that County employees must avoid any action hiring, promoting, or advocating for the advancement of an *immediate family member*. See INQ 22-89 (citing RQO 99-24); INQ 17-233. This section also prohibits any situation where a County employee provides some special hiring privilege to someone with whom they have a special relationship. See INQ 18-148.

In INQ 17-161, COE Staff opined that no prohibited conflict of interest prevented a Construction Manager with the Miami-Dade County Internal Services Department ("ISD") from overseeing a project where the County vendor involved in the project was owned and operated by a personal friend of the Construction Manager. However, the ISD Construction Manager was advised to discuss the matter with his supervisors to determine whether there were any reasons to reconsider his authority over the project in light of the paramount

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<sup>4</sup> <https://stantonmemorial.org/home> Last visited on January 26, 2024

importance of maintaining integrity and fairness in the County procurement process. *Id.* Here, it does not appear that any prohibited conflict of interest would arise from your employment in the same department as your friend, Mr. Rojas, because you do not have any familial relationship with him. *See* INQ 18-148; INQ 17-161. If you believe that there may still be a conflict of interest that would prevent you from being able to work with Mr. Rojas fairly and equitably, then you should discuss the matter with your supervisors and contact the Miami-Dade County Human Resources Department (“HR”) to reconsider your duties and responsibilities in the anticipated position. *See* INQ 17-161.

Additionally, the Miami-Dade County Ethics Code prohibits County employees from exploitation of their official position to secure special privileges or exemptions for themselves and/or their businesses. This means that you may not use your County position to secure special privileges or exemptions with respect to any County permit to which your parents apply for their home or rental property. *See* Section 2-11.1 (g), Miami-Dade County Ethics Code; INQ 19-123; INQ 20-43. If any work must be done on your parents’ home or rental property that requires a Miami Dade County permit you must ensure that you are not involved in the review or approval process for the permit to prevent an appearance of impropriety.

**Opinion:**

Based on the information provided during this review, it appears to be unlikely that the type of outside employment that Mare Jean is seeking to continue would impair his independence of judgment in the performance of his future County duties as Chief – Unsafe Structures for RER. Thus, Mare Jean would not have a conflict of interest in his continued outside employment as a property manager and his volunteer work with his church.

This is because there is no overlap between his public duties and his outside employment; his outside employment will be performed outside of his County hours; he will not come into contact with the same persons or entities involved in his County work; he will not use the same resources in his outside employment as is used in his County work; and, is he does not have access to non-public information as part of his County employment that is, or could be, relevant to his outside employment. *See* RQO 17-01; RQO 16-02.

However, the Commission on Ethics strongly recommends that the following limitations be imposed on Mare Jean’s permission to engage in his proposed outside employment:

- Mare Jean 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.

- Mare Jean 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 himself or others *See* Section 2- 11.1(h), Miami-Dade County Ethics Code.
- Mare Jean shall obtain permission to engage in his outside employment as a property manager 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. County employees are also required to file an annual Outside Employment Financial Statement, disclosing income earned, or the lack thereof, from their outside employment, on a yearly basis with the County’s Elections Department 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, Mare Jean, 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.