



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Linda Downs, Corrections Officer
Miami-Dade County Corrections and Rehabilitation Department

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

SUBJECT: INQ 2024-23, Section 2-11.1(c), Limitations on Contracting with the County, and Section 2-11.1(j), Conflicting Employment.

DATE: February 5, 2024

CC: All COE Legal Staff; District 4 Office of Miami-Dade County Commissioner Micky Steinberg; Victoria Goss, Training Coordinator, Neighbors and Neighbors Association.

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest concerning your application for a Mom-and-Pop Small Business Grant funded by Miami-Dade County.

Facts

You, Ms. Linda Downs, are employed by the Miami-Dade County Corrections and Rehabilitation Department (“Corrections”) as a Sergeant working in the Office of Compliance as a Prison Rape Elimination Act Coordinator. Your job responsibilities are to monitor transgender, gay, and intersex inmates while ensuring the department is in compliance with PREA Standards, MDCR policies and procedures. The responsibilities in your position do not include any oversight or administration of the Mom-and-Pop Small Business Grant program.

You also own and operate a Florida for-profit limited liability company named Downs Dynasty LLC (“Downs Dynasty”). Downs Dynasty is a clothing shop that is dedicated to women’s empowerment by offering clothing for sale with sizes that appeal to the average woman. You provide that Downs Dynasty also sells books and accessories. The listed mailing address for the business is located at 18117 Biscayne Blvd. #1295, Miami, FL 33160, within the boundaries of District 4 of Miami-Dade County. You are responsible for managing and organizing the company’s finances and documentation, as well as generally overseeing operations. You provide

that your partner in this venture is Shakeira Walton¹, who is a Correctional Officer working for MDCR. You also provide that you are not aware of any specific grants you would like to apply to at this time but would like to apply for grants that are given to small businesses, first-time business owners, and any minority or gender specific grants.

One example of such a grant is the Mom-and-Pop Small Business Grant program that is funded by Miami-Dade County. The Neighbors and Neighbors Association, a Florida not-for-profit organization, administers and makes recommendations regarding the Mom-and-Pop Grant applications; funds are distributed to qualifying businesses by the thirteen County Commission district offices.

Issue

Whether there is a prohibited conflict of interest that would prevent Downs Dynasty, your privately owned business, from accepting a Mom-and-Pop Small Business Grant.

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. Outside Employment

Work conducted for Downs Dynasty by you constitutes outside employment, as defined by the County Ethics Code. *See* RQO 17-03 (citing RQO 16-01 and INQ 09-109). 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.”

The Miami-Dade County Ethics Code prohibits County employees from engaging in outside employment that is likely to create conflicts of interest between the employee’s County responsibilities and their outside job duties. After reviewing the facts presented here, we find that your outside employment of operating Downs Dynasty is not likely impair your independence of judgment in the performance of your County duties as a Corrections Sergeant. *See* INQ 17-50 (No conflict of interest was found for a Corrections Sergeant who wanted to engage in outside employment as a correctional consultant because she does not have the authority to approve or disapprove any agreements related to her

¹ At the time of this opinion, the INFORMS Outside Employment records reflect that Ms. Walton has not declared and has not applied for approval to conduct outside employment with Downs Dynasty, LLC.

outside employment; she has no involvement in the oversight, administration, or auditing by the County for her outside employment; and her outside employment would not impair her independence of judgment in the performance of her public duties or conflict with her County employment hours.) This is because there is no overlap between your public duties as a Corrections Sergeant and your outside employment. Here, you will not be assisting the same clients, you will not use the same resources, and the work would be performed outside of your County hours. *See* RQO 17-01, INQ 21-27, INQ 20-21, and INQ 23-36 (A Corrections officer may contract with the county through her privately owned business to participate in the Mom & Pop Small Business grant program because her outside employment is unlikely to give rise to a prohibited conflicted of interest, her department is not involved in any way in processing or administering the grant, and the employee does not lobby for the grant.)

However, County 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* AO 7-1; RQO 16-02; RQO 00-10; INQ 13-28. **Accordingly, this memorandum does not grant permission to engage in outside employment. You must obtain permission to engage in outside employment yearly from your department director. Given that you are a full-time Miami Dade County employee, you must file an Outside Employment Statement² with the County's Elections Department by noon on July 1st of each year regardless of whether you made a profit or not in your outside employment.** *See* County Ethics Code Section 2-11.1(k)(2).

B. Mom and Pop Small Business Grant

With permission to engage in outside employment, Downs Dynasty **may accept the Mom-and-Pop Small Business Grant**, so long as Corrections is not involved in any way in processing or administering the grant. This includes the condition that you may not participate in determining or awarding the grants. Additionally, none of your job responsibilities or job descriptions may require you to be involved in the grants in any way, including enforcement, oversight, administration, amendment, extension, termination, or forbearance. *See* County Ethics Code §§ 2-11.1(c), (n).

C. Lobbying

You may not lobby the County. In this case, it means that Ms. Downs may not contact anyone within the County in an attempt to influence a decision about Downs Dynasty's application for a Mom-and-Pop Small Business Grant. *See* County Ethics Code § 2-11.1(m)(1).

² Ms. Downs can find the Outside Employment Statement form online at: <https://www.miamidade.gov/elections/library/forms/outside-employment-statement.pdf>.

D. Exploitation of Official Position

The County Ethics Code prohibits County employees from exploitation of their official position. *See* County Ethics Code § 2-11.1(g). This means that you may not use your County position to secure any special privilege or exemption with respect to Downs Dynasty's application to, and ultimate participation in, the Mom and Pop Small Business Grant program, or to any other grant program to which Downs Dynasty or you are applying.

Opinion

Based on the facts presented here and discussed above, Downs Dynasty's participation in the Mom-and-Pop Small Business Grant program **does not appear to give rise to any prohibited conflict of interest.**

This opinion is limited to the facts as presented to the Commission on Ethics and to an interpretation of the County Ethics Code only. 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/>.

We appreciate your consulting with the Commission in order to avoid possible prohibited conflicts of interest. If the facts associated with your inquiry change, or if there are any further questions, 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.