

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, March 07, 2019 4:30 PM
To: Warger, Brenda (MDPR)
Cc: Arrojo, Jose (COE); Murawski, Michael P. (COE); Perez, Martha D. (COE); Turay, Radia (COE); Wimbley, Joseph (MDPR); Sanchez, Rodzandra (COE); Anderson, Machell (COE)
Subject: INQ 19-28, Roosevelt Johnson, Jr. Security Guard, Deering Estate (Outside Employment)
Attachments: INQ 19-28 Johnson.pdf

Dear Ms. Warger:

Thank you for contacting the Commission on Ethics. Attached is the requested outside employment opinion for Mr. Roosevelt Johnson, Jr., employed at the Deering Estate.

Please do not hesitate to contact us if we may be of further assistance.

Cordially,

Gilma (Mimi) Diaz-Greco
Staff Attorney



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MEMORANDUM

TO: Roosevelt Johnson Jr.
Security Guard, Deering Estate-Miami Dade Parks, Recreation and Outdoor Spaces Department

FROM: Gilma Diaz-Greco, Staff Attorney
Commission on Ethics

SUBJECT: INQ 19-28

DATE: March 7, 2019

CC: All COE Legal Staff; Brenda Warger, Assistant to the Director, Deering Estate-Miami Dade Parks, Recreation and Outdoor Spaces Department, Joseph Wimbley, Security Manager, Deering Estate

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

Facts:

You are employed at the Deering Estate, a division of the Miami-Dade County Parks Recreation and Open Spaces Department (“PROS”) as Security Guard. You would like to engage in outside employment as a Security Guard with U.S. Security Associates, Inc (“U.S. Security”)

Issue:

Whether any prohibited conflicts of interest may exist between your County employment and your proposed outside employment as a security guard for U.S. Security.

Discussion:

As background, you are employed at PROS as a part-time Security Guard at Deering Estate. Your job duties include ensuring the security, and safety of Deering Estate visitors, personnel, and premises by patrolling property; monitoring surveillance equipment; inspecting buildings, equipment, and access points; monitoring safe entry and exit to the estate. We have consulted your supervisors at the Deering estate who confirmed that your County job duties do not include

selection, oversight, administration or any other duties involving security companies hired by Miami-Dade County.

You are seeking outside employment working as a Security Officer for U.S. Security. This company is a County vendor that provides premise patrol services to other PROS divisions but does not provide patrol or security services to the Deering Estate. Your outside employment would involve providing security guard services at the Metro-Dade Justice Building which is not administered by PROS and would occur outside of your County weekend work hours.

Several sections of the Miami-Dade Code of Ethics must be considered in analyzing whether a County employee's outside employment may create prohibited conflicts of interest.

- Sections 2-11.1(j) and (k) prohibit County employees from engaging in outside employment which creates a conflict between the County employee's public duties and his or her private interests and would therefore be likely to impair the County employee's independence of judgment in the performance of his or her official duties.
- Section (g) of the County Ethics Code prohibits County employees from using their official position to obtain special privileges or exemptions for themselves or their outside employers. Overseeing, administering, being involved in the selection, or recommendation of any current or future contract that the employee's outside employer may have with the county, and/or the use of County time or resources in the performance of outside employment, may constitute an "exploitation of official position" in violation of Section 2-11.1(g) of the County Ethics Code.
- Section (f) of the County Ethics Code County provides that employees engaged in outside employment with a County vendor must complete a sworn affidavit disclosing that employment and must file the affidavit with the Miami-Dade Clerk of the Board.

In this instance, your outside employment working as a Security officer for US Security shares some similarities with the guard duties you perform at the Deering Estate. However, conflicts are unlikely to exist because this vendor does not provide security or patrol services to the Deering Estate which employs you, and your public duties there would not include direct or indirect contact with; nor selection, oversight, or administration of US Security; nor routine access to information or other County resources that would be likely to benefit your outside employer. Furthermore, your outside employment would occur outside of your County hours.

Opinion:

Based on the facts presented here, and after discussing this matter with Deering Estate supervisory personnel, we concur with them that your outside employment as a Security Officer for US Security does not create conflicting employment. This is because this vendor does not provide patrol or guard services to the Deering Estate which employs you, and your public duties there would not include direct or indirect contact with; nor selection, oversight, or administration of US Security; nor routine access to information or other County resources that would be likely to benefit your outside employer. See RQO 16-02 (No conflict of interest where a County employee works for a

County vendor where the employee has no contact with or authority over the County contract with the vendor), and COE Outside Employment Guidelines (2017).

In addition, your outside employment would occur outside of your County hours and would not require use of resources or time used in your County work. Consequently, there is no overlap or likelihood of conflict between your public duties as a security guard at the Deering Estate and your outside employment.

However, you must abide by certain limitations which include the prohibition from using County time or resources in your outside employment; from disclosing any confidential information, or using confidential information gained in your County employment for a private benefit; and from using your County position to secure any special benefits for yourself or your private business. Miami-Dade Code Section 2-11, AO No. 7-1, County Ethics Code Sections 2-11.1(g) and (h).

Furthermore, as long as you are engaged in outside employment you must obtain permission to engage in outside employment annually and file an affidavit annually to disclose your employment with a County vendor. Please note though that **you do not** have to file an outside employment financial disclosure form (Outside Employment Statement) while you are employed at the County on **part time basis**. County Ethics Code Sections 2-11 and 2-11.1 (k)(2).

This opinion is limited to the facts as you 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.

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 Ethics Commission 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.