



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Maria Nardi, Director
Parks, Recreation and Open Spaces (PROS)
Ron Magill, Communications and Media Relations Director at Zoo
Miami

FROM: Martha D. Perez, General Counsel
Commission on Ethics

SUBJECT: INQ 20-20, Conflicting outside employment (j); Gifts (e)

DATE: March 6, 2020

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding conflict of interest provisions that may apply to Mr. Magill's proposed outside employment and Section-11.1(j) of the County Ethics Code.

Background

Mr. Magill is the Communications and Media Relations Director for Zoo Miami. In that role, he serves as spokesperson for Zoo Miami; develops and manages media-related activities at the Zoo; and, produces and delivers a wide variety of zoo-related presentations for social, civic and educational groups.

Mr. Magill has already been approved for outside employment "to lecture, lead wildlife expeditions and serve as consultant for a variety of television programs and wildlife projects as well as being a national Nikon Ambassador for photography... host [of] a national broadcast television series...[and] weekly national radio spot on ESPN radio...[and] a wildlife contributor for ...Univision and Telemundo."

Mr. Magill wishes to engage in outside employment as Brand Ambassador to Perry Ellis International (PEI) promoting its "Cubavera" eco-friendly clothing line. PEI is not a County PROS vendor. He has advised that the work would be performed during off-duty work County hours and his compensation would be in the form of clothing with an

estimated value of \$2,000.00. ¹ Although Mr. Magill is not accepting monetary payment for his services, he is also negotiating with PEI for a donation to the conservation efforts at Zoo Miami and the possibility of sponsoring a Cuban crocodile exhibit at the zoo.

The Ethics Commission does not object to County employees working on projects outside the County for third parties. Section 2-11.1(j) of the County Ethics Code, *Conflicting employment prohibited*, prohibits County employees from engaging in outside employment which would impair the employee's independence of judgment in the performance of his or her official duties.

Based on the facts presented, we find that Mr. Magill's outside employment as Brand Ambassador is very similar to the types of outside employment he has already been approved for in that they all advocate for conservation initiatives and the promotion of sustainability. It is important that Mr. Magill does not use any County time or resources, including his title as Zoo Goodwill Ambassador, in furtherance of his outside employment. It is equally important that Mr. Magill does not promote his outside employment during County time (i.e., wearing a Cubavera shirt to work, conducting his outside employment initiatives on County property or using County equipment and resources in his outside employment). *See* INQ 07-68

Mr. Magill must request outside employment on an annual basis and file an Outside Employment Statement reporting the annual compensation he received from the outside employment on a yearly basis with the County's Elections Department by July 1st of each year. Section 2-22.1(k)(2), County Ethics Code ²

The negotiation of a donation by an outside employer to the County, as presented in this inquiry, triggers a review of Section 2-11.1(e) of the Code- *Gifts*. ³ Subsection 2-

¹ Outside employment is considered any non-County employment or business arrangement in which the County employee provides a personal service that is *compensated or eligible to be customarily compensated*. INQ 17-75, INQ 17-130

Compensation has been defined in other parts of the Ethics Code to include any money, gift, favor, political contribution, thing of value or other financial benefit." Section 2-11.1(e)(2)(g)

² The wardrobe provided by PEI would not be reported on a Gift disclosure form but rather, as compensation for your outside employment, it must be reported in an Outside Employment statement.

³ Section 112.3148, Florida Statutes, prohibits reporting individuals or procurement employees in government agencies from soliciting a gift from an agency vendor or lobbyist or a political committee "for

11.1(e)(2)(f) specifically permits a County employee to solicit or accept a gift (donation) on behalf of the County in the performance of his or her official duties for use solely by the County in conducting its official business (i.e., for a public purpose), **provided** it is done without any expectation of action by the County in return (i.e., no *quid pro quo*) and no County employee will derive any financial benefit from the gift/donation. INQ 15-195; INQ 17-203. A gift under this exception does not require disclosure. A donation to Zoo Miami to promote and/or sponsor programs or initiatives promoting the conservation and sustainability of wildlife is a clear public purpose intended to benefit the County and its residents.

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.

the personal benefit” of such individual (Subsection 112.3148(f)(3)), as well as the acceptance of gifts valued at over \$100 from such persons or entities, *unless* the gift is accepted on behalf of a governmental entity or charitable organization, in which case the person receiving the gift may not maintain custody of the gift for any period of time beyond that reasonably necessary to arrange for the transfer of custody and ownership of the gift (Subsection 112.3148(4)).