

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Wednesday, August 17, 2016 11:34 AM
To: Sanchez, Rodzandra (COE)
Subject: FW: Charles LaPradd, RER, Conflicting employment, INQ 16-204
Attachments: Outside Employment - Charles LaPradd.pdf

INQ 16-204 Erml-Martinez

From: Perez, Martha D. (COE)
Sent: Wednesday, August 17, 2016 11:19 AM
To: Erml-Martinez, Christa (RER) <Christa.Erml-Martinez@miamidade.gov>
Cc: Centorino, Joseph (COE) <CENTORI@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Subject: Charles LaPradd, RER, Conflicting employment, INQ 16-204

Dear Ms. Emrl- Martinez,

You inquired about a possible conflict of interest between the County employment and the proposed outside employment of Charles LaPradd (LaPradd), the County's Agricultural Manager in the Department of Regulatory and Economic Resources (RER).

Background

LaPradd's job responsibilities include professional, administrative and liaison work for the promotion and coordination of the agricultural industry in the County. This includes the development and implementation of economic strategies for the County's agricultural community and related businesses to support their viability. Among his diverse duties, LaPradd advocates for grants from the Federal government (USDA). These grants are generally provided to growers who have federal crop insurance. Other sources of funding advocated by LaPradd include State grants and other sources which may benefit the County's growers and agricultural industry.

LaPradd's duties and responsibilities as Agricultural Manager also include the oversight of the County's Purchase of Development Rights Program (DPR), which promotes the preservation of viable farmland through the County's acquisition of development rights on property identified as suitable for agricultural use. Other initiatives promoted by his office are the Farmer's Market and the "Redland-Raised" initiative (a local branding initiative to promote consumption of fresh local produce). LaPradd is also instrumental in the presentation of legislative initiatives which impact the agricultural industry, such as the recently amended County ordinance declaring "Laura Wilt Disease" (which affects *avocado* trees) to be a public nuisance and allowing for enforcement and penalties.

LaPradd's proposed outside employment consists of growing, harvesting and selling tropical fruit- *avocados* -from his personal grove on 3.9 acres of commercially-designated agricultural land located in his 5-acre residential property. LaPradd sells *avocados* primarily to packing houses for commercial sale. His outside employment will take place on nights and weekends. He has advised his supervisors that the denial of his request for outside employment would cause a significant financial burden because the portion of his property assessed as "commercial agriculture" would be assessed at a higher value, compelling him to look at other options, including renting out the grove.

In an effort to lessen any existing or potential conflicts arising from LaPradd's proposed outside employment, his supervisors have imposed the following limitations on his County duties:

- He may not apply or receive any funding from grants awarded to the County and/or any other source of funding received by the County to be allocated to members of the agricultural community (LaPradd does not have any federal crop insurance which would facilitate his receipt of federal grant funds; however, as agreed to, in the event the Federal government would waive the insurance requirement for receipt of grant funds in emergency situations, LaPradd could not receive any funds from a grant awarded to this County, thus removing him from the decision-making process regarding the allocation of grant resources which could personally benefit him);
- With respect to the vetting of funds received from Federal and State grants or other sources which benefit the County's growers and agricultural industry in general, LaPradd will recuse himself from the decision-making process regarding the beneficiaries of these grants or other resources.

Analysis

Section 2-11.1(j) of the County Ethics Code, prohibits a County employee from engaging in outside employment which would impair his independence of judgment in the performance of his official duties or which would create an ongoing conflict between his public duties and private interests. To that end, it is imperative that County employees avoid any and all instances which represent or *may* represent conflicts between their personal, private interests and their County duties. "County business must be conducted free of influence of employee's personal and private financial interests, both in appearance and in fact". See AO 7-1. Permission to engage in outside employment may be denied or revoked at any time upon a supervisor's determination that such employment is/has become detrimental or adverse to the interests of the County. *Section 2-11.1, Miami-Dade County Code.*

Conflicting employment frequently occurs when the outside employment is closely related to the employee's public position. *COE's Outside Employment Guidelines, September 2014.* In this instance, LaPradd's proposed outside employment as an agricultural commercial grower is closely related to his County work, exposing him to a foreseeable risk that he could use his official County position to secure special privileges and advantages in his outside employment. See RQO 15-03; INQ 16-42; INQ 12-218; INQ 13-88.

This conflict is even more evident in the significant role LaPradd plays in the identification and eradication of *avocado* trees infected with "Laurel Wilt" disease, the same type of trees he has on his personal farm. Moreover, the fact that LaPradd is intimately familiar with the availability of County resources in the agricultural community suggests that opportunities to use these resources for private gain could arise, albeit unintentionally. See INQ 13-88. Equally problematic is the possibility of conflicts arising when competitors of his private agricultural business qualify or vie for programs or incentives overseen and/or managed by his office.

While assurance that LaPradd will remove himself from any decision-making role involving his private business is commendable, it is difficult to imagine how he would disassociate his County responsibilities of promoting and safeguarding the very industry he stands to benefit from as a private agricultural grower. In fact, in order to avoid any conflicting employment, LaPradd would have to remove himself from *any* initiative, discussion, project, contract, recommendation or decision which would impact his private agricultural business or which could conceivably put his personal, private business interests ahead of the County's, essentially abolishing his public duties.

Consequently, La Pradd's proposed outside employment will inevitably expose him to situations impairing or hindering his independence of judgment in the performance of his duties as the County's Agricultural Manager, therefore, LaPradd should consider other alternatives as suggested in your inquiry, and should not engage in the proposed outside employment activity.

This opinion is based on the facts as presented. If any of these facts change, please contact us. Inquiries regarding possible conflicts of interest under State law should be directed to the Florida Commission on Ethics.

Martha D. Perez

Staff Attorney

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

19 West Flagler St. Suite 820

Miami, FL 33130

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Good morning Christa,

When you have a moment, please send me Mr. LaPradd's Request for Outside Employment. Thank you.

Martha D. Perez
Staff Attorney
MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST
19 West Flagler St. Suite 820
Miami, FL 33130
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Good afternoon Christa,

If possible, would you please send me Mr. LaPradd's Request for Outside Employment?

It appears that Mr. Osterholt is approving the request pending our concurrence that it does not appear to present a conflict, right?

Thank you.

Martha D. Perez
Staff Attorney
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From: Centorino, Joseph (COE)
Sent: Monday, August 08, 2016 2:51 PM
To: Perez, Martha D. (COE)
Subject: FW: Outside Employment Opinion

Please handle. Thanks.

From: Erml-Martinez, Christa (RER)
Sent: Friday, August 05, 2016 5:25 PM
To: Centorino, Joseph (COE) <CENTORI@miamidade.gov>
Cc: Lamont-Bailey, Lora (RER) <LamonL@miamidade.gov>
Subject: Outside Employment Opinion

Good afternoon, Mr. Centorino,

We are respectfully seeking an opinion regarding an outside employment request that was submitted to our Director, Mr. Jack Osterholt, for approval.

Charles LaPradd is the Agricultural Manager for Miami-Dade County and an employee within the Department of Regulatory and Economic Resources. His job responsibilities include advanced professional, administrative, and liaison work for the effective coordination and promotion of the agricultural industry in Miami-Dade County. He is responsible, among other duties, for developing and implementing economic strategies for the Miami-Dade County agricultural community and related businesses to support their viability. One of these strategies is to effectively apply and receive grants and funding from Federal (USDA), State (FL Department of Agriculture and Consumer Services), and other sources that benefit growers and the agricultural industry in Miami-Dade County.

On his request for outside employment, Mr. LaPradd states that he grows, harvests, and sells tropical fruit from his personal grove on his home property.

Given that the outside employment is related to the employee's public position, in that he advocates on behalf of an industry of which he is a part, we are requesting an opinion regarding the following measures that Mr. LaPradd will take to avoid any potential conflict.

Mr. LaPradd advocates for grants from the federal government (USDA). Generally, growers must have federal crop insurance in order to receive a USDA grant. Mr. LaPradd does not have federal crop insurance for his small grove. In this way, he is excluded from being able to personally benefit from the grants for which he applies on behalf of Miami-Dade County. In the event that the requirement for insurance is waived, which could happen after a destructive weather event such as a hurricane, Mr. LaPradd cannot receive a grant for his personal grove from funds awarded to Miami-Dade County unless it were approved through a USDA office in another County. In these ways, Mr. LaPradd is removed from the decision making process regarding allocation of grant resources that could personally benefit him.

In the event that revenues from State grants or other sources do not have these programmatic restrictions, or in the event that Mr. LaPradd is responsible for the vetting and provision of these grant monies, he will either: 1) ensure that neither he nor any immediate family member, as defined in the County Code, receive any of these resources, or 2) recuse himself from the decision making process regarding who benefits from the grants or other resources.

For his other responsibilities as an advocate and liaison for the agricultural industry in Miami-Dade County, Mr. LaPradd will either: 1) ensure that neither he nor any immediate family members, as defined in the County Code, benefit distinctly from efforts pertaining to his job duties, or 2) recuse himself from the decision making process if decisions could distinctly benefit his or any immediate family member, as defined in the County Code, from these efforts.

There are two other factors regarding Mr. LaPradd's outside employment that warrant mentioning. First, Mr. LaPradd is not a major grower in Miami-Dade County. He grows, harvests, and sells tropical fruit in his personal grove on his home property of roughly five acres. In this way, his ability to use his public position to personally benefit his outside employment has very limited scope, in addition to the other measures he will take to eliminate his ability to personally benefit from his public position.

Finally, denial of his request for outside employment would cause a significant financial burden for Mr. LaPradd, since the portion of his property that is currently assessed as commercial agriculture would be assessed at a much higher

value. The only other option for Mr. LaPradd, should his outside employment be denied, would be to rent his grove to another individual/business in order to maintain the commercial agriculture assessment. This is a possibility that has not been explored, but neither is it certain that a viable renter could be found.

We would appreciate your feedback and any further steps that Mr. LaPradd should take to avoid any appearance of a conflict of interest.

Thank you for your consideration of this request. We appreciate any additional advice you may have to offer on this matter.

Sincerely,
Christa

Christa C. Erml-Martinez, Assistant Director
Department of Regulatory and Economic Resources

Administrative Services

701 NW 1st Court, 4th floor, Miami, Florida 33136

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REQUEST FOR OUTSIDE EMPLOYMENT

Sections 2-11.1 (j) and (k) of the Miami-Dade Code provide that County employees may accept incidental or occasional outside employment as long as the employment is not contrary, detrimental, or adverse to the interests of the County and as long as no County time, equipment, or other resources are used. The Miami-Dade Code at Section 2-11 and Miami-Dade County Administrative Order 7-1 require that any full-time County employee intending to engage in outside employment must first obtain approval from his/her Department Director using this Request for Outside Employment form. These approvals must be renewed on an annual basis. Copies of all outside employment approvals shall be maintained in the centralized personnel files of the Human Resources Department. Each County Department shall also maintain appropriate records regarding outside employment requests. County employees engaging in outside employment must also file an Outside Employment Statement form with the Elections Department by July 1st of each year, in accordance with Section 2-11.1(k)(2) of the Miami-Dade County Code. More detailed information on outside employment is available on the Miami-Dade Commission on Ethics website at <http://ethics.miamidadegov/outside-employment.asp>

Employee's Name Charles LaPradd	Employee ID Number 205615
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Present County Employment (Check one)

County Public Health Trust

Department Regulatory and Economic Resources	Position or Title Agricultural Manager
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Job Responsibilities
This is advanced responsible professional administrative and liaison work responsible for the effective coordination and promotion of the agricultural industry in Miami-Dade County. Responsible for developing and implementing economic development strategies for the Miami-Dade County agriculture and related businesses to support their viability.

Name of Company/ Organization	Self - no company or organization
Job Title	Farmer
Responsibilities	Growing, harvesting & selling tropical fruit in personal grove on home property
Location	17275 SW 296 St., Homestead, FL 33030
Work Schedule	Night/Weekends
Total hours per week	5 - 15, depends on time of year.
Will your proposed outside employer release you if and when your services are needed by the County? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

In my outside employment, I am employed by one of the following types of organizations:

- Company or organization that is not a County vendor.
- Company or organization that is a County vendor (County employee is required to file a sworn affidavit disclosing such employment with the County Clerk of the Board)
- Self-employed through my privately owned company. (If your privately owned company is seeking to contract with Miami-Dade County, you are required to request an ethics opinion. The Ethics Opinion form can be found at <http://ethics.miamidadegov/frequently-used-forms.asp>).
- Company or organization owned by an immediate family member; defined as a spouse, domestic partner, parents, stepparents, children, and stepchildren of employee. (If the company owned by your immediate family member is seeking to contract with Miami-Dade County, an ethics opinion is required; the Ethics Opinion form can be found at <http://ethics.miamidadegov/frequently-used-forms.asp>).

I affirm that the information I have provided is true and I pledge to abide by the requirements listed here.

5/3/16

Employee Signature

Date

Division Chief Approval

Date

Assistant Director Approval

Date

Deputy Director Approval

Date

Department Director Approval

Date

Standard Conditions for all Outside Employment Approvals

Outside employment is a privilege that may be granted when it is clear that the outside employment will not create conflicts of interest or the appearance of conflicts and will not interfere or intrude upon County work responsibilities. Specifically, the following conditions apply:

1. No activities of any kind that relate in any way to this outside employment shall occur during working hours, including phone calls or any other communications.
2. No use of any county equipment, (including, but not limited to, phones, copiers, computers, and fax machines) shall occur in connection with outside employment, even after work hours.
3. No marketing, solicitation, or transaction related to outside employment shall occur on RER premises.
4. No marketing, solicitation, or transaction shall occur between supervisors and supervisees.

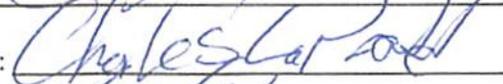
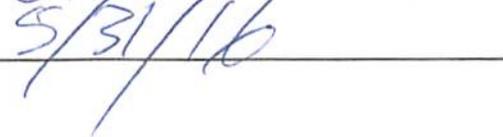
Failure to comply with these conditions may result in revocation of approval for outside employment and disciplinary action up to and including termination, as appropriate.

I have read and agree to abide by the foregoing conditions for outside employment.

Signed: _____

Print Name: _____

Date: _____

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST



MEMORANDUM

TO: Commission on Ethics and Public Trust

FROM: COE Staff Attorneys

Re: Outside employment guidelines

DATE: Last amended, September 2014

The purpose of this memorandum is to clarify and educate County and municipal employees as to what activities are considered “outside employment” requiring prior approval and disclosure.

Sec. 2-11.1(k) of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance (the Ordinance) provides that a County or municipal employee may not receive compensation for his or her services as an officer or employee from any source other than the County, except as permitted in Sec. 2-11 of the Miami-Dade County Code.

According to Sec. 2-11, a County employee may accept outside employment as long as it is not contrary, detrimental or adverse to the interest of the County and as long as the employee first obtains written approval from the department head of the department where the employee is assigned. For County employees, approval is sought by filling out a Request for Outside Employment form¹, pursuant to Miami-Dade County Administrative Order 7-1. Municipal employees should fill out a comparable form designated by the municipality.

Once the employee has obtained permission to engage in outside employment, the employee must file an Outside Employment Statement² with the County Elections department³ by noon on July 1st of each year. The source of income filed each July 1st must disclose income received by the employee from outside employment in the preceding calendar year. In other words, an employee who engaged in outside employment during 2013 must file an Outside Employment

¹ Request for Outside Employment form is available at: <http://www.miamidade.gov/elections/library/forms/outside-employment-request.pdf>, and ethics.miamidade.gov.

² Outside Employment Statement form is available at: <http://www.miamidade.gov/elections/library/forms/outside-employment-statement.pdf>, and ethics.miamidade.gov.

³ A municipal employee engaged in outside employment must file his/her outside employment statement with the clerk of the municipality where he/she is employed.

Statement by July 1st, 2014, disclosing both the source of his or her outside income and the amount.

County and municipal employees and their supervisors must also be aware of Sec. 2-11.1(j) of the ordinance which states that no full-time (*See* INQ 06-172) County or municipal employee, may “accept other employment which would impair his or her independence of judgment in the performance of his or her duties.” The following may be indicative of potential conflicts between an employee’s duties to the public and duties to his/her outside employer:

- The outside employment is related to the employee’s public position.
- The outside employment consists of work that is similar to work done by the public employee.
- The public employee will come in contact with the same or similar people or entities in both his/her outside employment and in his/her public position, *e.g.*, similar clients, suppliers, or subcontractors.
- The public employee uses the same or similar resources in his/her outside employment as he/she uses in his public position, *e.g.*, similar tools, similar materials, or similar databases.
- At least a portion of the outside employment can only be accomplished during the same business hours in which the employee is required to work for the public.
- The employee works in a public position in which he/she has the opportunity to refer vendors, contractors, bidders, or members of the public to the his/her outside employer or related private business entities.
- The public employee works in a public position in which he/she has the opportunity to recruit vendors, contractors, bidders, or members of the public to use his/her outside employment products or services.
- The outside employment requires that the public employee interact with employees or boards of the same government entity in which he/she is employed, even for routine matters.
- The public employee has access through his public position to non-public information that is relevant to his/her outside employment.
- The public employee works in a department that funds or has a contract with his/her outside employer.
- The outside employment is likely to place the public employee in situations in which private economic considerations may override the faithful discharge of his/her public responsibilities.

It is also important for these individuals to be aware of Sec. 2-11.1(h), which states that no County or municipal employee may “accept employment or engage in any business or professional activity which he or she might reasonably expect would require or induce him or her to disclose confidential information acquired by him or her by reason of his or her official position...with the County [or municipality].”

Employees who are required to file a financial disclosure form (County Source of Income Statement or State Form 1) should note that their outside employment must also be disclosed on these forms.

Finally, it is important for employees to know that the use of the public's time and/or resources in the performance of outside employment may constitute an "exploitation of official position" in violation of Sec. 2-11.1(g).

Activities that constitute outside employment and consequently require prior permission and disclosure are laid out by category below.

Paid Employment

- Compensated employment for any person, firm, corporation or entity (including a non-profit entity) is considered outside employment.
- Any consulting firm or business owned by the employee regardless of whether the firm/business is officially incorporated or whether the firm/business is generating income for the employee is considered outside employment. (INQ 13-34, 12-131)
- Providing either paid or unpaid services to any firm/business including, but not limited to, those owned by an immediate family member is considered outside employment.
 - Examples of "providing services" include, but are not limited to: bookkeeping, legal services, marketing services, servicing clients, among others.
 - "Immediate family" is defined as, "spouse, domestic partner, parents, stepparents, children and stepchildren..." Sec. 2-11.1 (b)(9) of the Ordinance.
- Passive investment in a corporation is not considered outside employment. (RQO 08-36)
- Serving as an off-duty police officer (whether or not coordinated by the local government entity) is considered outside employment if the officer is paid directly by the third party. (INQ 03-25) If the officer is paid through the department, it is not considered outside employment. (INQ 03-16)

Business ownership

- Being listed as an officer in a spouse's corporation where the employee performs no services for that corporation and receives no income from it is not considered outside employment. (INQ 05-37)
- The setting up of an S-Corporation to protect personal assets is not considered outside employment. (INQ 06-136)

Rental Properties

- Ownership of 3 or more rental units is considered outside employment unless a management company is hired to manage the units for the owner. (RQO 06-48, INQ 07-83)

Board Membership (For-Profit Corporations)

- Compensated board membership on a for-profit board is considered outside employment.
- Uncompensated board membership on a for-profit board if the employee is actively involved in the management of the for-profit entity is considered outside employment.
- Membership on an inactive board does not require disclosure if the corporation has been inactive for a period of two (2) years and the corporation is listed as inactive in the State's records.

Board Membership (Non-Profit Corporations)

- Uncompensated service on a non-profit entity's board is not considered outside employment.

Internet Sales

- Running a web-based business is considered outside employment regardless of whether the employee generates any income.
- Occasionally selling items on Ebay (or other internet sales sites) is not considered outside employment. (INQ 05-19)

Volunteer work

- Traditional volunteer work for a non-profit corporation is not considered outside employment. (INQ 09-184)
- Serving as a volunteer Associate Pastor at a church, which occasionally collects "love offerings" on his/her behalf is considered outside employment. (INQ 05-30)

Military Service

- Service in the reserve United States Armed forces is not considered outside employment. (RQO 14-03)

WHO MUST FILE ANNUAL OUTSIDE EMPLOYMENT REQUEST AND ANNUAL OUTSIDE EMPLOYMENT STATEMENT

I. COUNTY OUTSIDE EMPLOYMENT PERMISSION AND DISCLOSURE REQUIREMENTS

A. Overview

Pursuant to the Miami-Dade Code at Section 2-11, Administrative Order 7-1, and Procedure 403, all full-time and part-time Miami-Dade County employees who engage in any outside employment must request permission from their department before engaging in outside employment. Permission for outside employment must be requested and granted on an annual basis, even in cases where the type of outside employment has not changed. Municipal employees should follow municipal ordinances and procedures regarding permission to engage in outside employment.

All full-time County and municipal employees who engaged in any outside employment during the preceding year for any person, firm, corporation, or entity other than Miami-Dade County or their respective municipality must file a statement regarding their outside employment income (Miami-Dade Code at Section 2-11.1(k)(2)). Full-time County employees file the Outside Employment Statement with County Elections Department by July 1st of each year. Full-time Municipal employees must file the Outside Employment Statement annually with their respective Municipal Clerks.

This filing is in addition to any other financial disclosure requirements.

For additional information on outside employment, please visit the Miami-Dade Commission on Ethics' website at: <http://ethics.miamidade.gov/outside-employment.asp>.

B. What Must Be Filed: When and Where

Request for Outside Employment

- Miami-Dade County employees must submit a Request for Outside Employment to the employee's Department Director for his/her approval before accepting outside employment. Approval must be obtained every year thereafter while engaged in outside employment. Guidelines on what constitutes Outside Employment are outlined in the Outside Employment Memorandum (2014). Department Directors may request an opinion from the County Ethics Commission regarding conflicts of interest in outside employment.
- If written approval is granted by the County Department Director, the employee may engage in outside employment.
- Copies of all outside employment approvals shall be maintained in the centralized personnel files of the County Human Resources Department. Each department shall also maintain appropriate records regarding outside employment requests.
- If the Department Director denies approval for the requested outside employment, the employee cannot engage in that outside employment.
- Failure to disclose the precise amount of income earned from one's outside employment is a violation of the ordinance. Failure to disclose the precise amount of income earned from one's outside employment is a violation of the ordinance.
- Municipal employees should follow municipal ordinances and procedures regarding permission to engage in outside employment.

