
INQ 16-42 Pollock

From: Perez, Martha D. (COE)

Sent: Friday, February 12, 2016 11:15 AM

To: Pollock, Traci (MDEAT) <pollock@miamidade.gov>

Cc: Centorino, Joseph (COE) <CENTORI@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>

Subject: Traci Pollock, Special Projects Administrator, MD-EAT, Board Member Conflict of Interest , INQ 16-42

Dear Traci,

You inquire whether there are any potential conflicts of interest for a member of the Miami-Dade County Economic Advocacy Trust (MDEAT) who is also an employee of the County's Juvenile Services Department (JSD). *Both* of these entities share a common goal: providing alternative sanctioning initiatives and opportunities to first-time juvenile offenders- JSD, through a centralized referral facility and MDEAT, through its Teen Court Program.

By way of background, Ruban Roberts (Roberts) was appointed to the MDEAT on June 30, 2015. At that time, Roberts was in private practice. Sometime thereafter, he became employed as a Juvenile Assessment Counselor in the County's JSD. As part of their responsibilities, Juvenile Assessment Counselors process the juveniles arrested in Miami-Dade County.

MDEAT: The purpose of MDEAT is to ensure equitable participation of Blacks in Miami-Dade County's economic growth. As part of its responsibilities, MDEAT identifies funding sources, applies for grants for economic development initiatives, oversees and enforces County contracts and makes recommendations to the BCC. MDEAT's budget comes from the County as well as alternative funding sources, including but not limited, to grants and non-taxed based sources. As part of its initiatives, MDEAT has implemented the Teen Court Program (Teen Court), a peer-sanctioning program for first time juvenile offenders. Teen Court's alternative sanctioning program affords first-time misdemeanor youthful offenders the opportunity to participate in a sentencing hearing conducted by youth volunteers who serve as attorneys, jurors, etc. Teen Court's funding is primarily derived from a "dedicated source of funding" through the assessment of traffic court fees. **Teen Court is comprised of youth volunteers and three County Juvenile Service Specialists who receive referrals of potential participants from JSD Assessment Counselors. In turn, MDEAT reports to JSD on the progress of these cases in the Teen Court. Additionally, MDEAT, through its Youth Action Committee, makes recommendations on the objectives of the Teen Court Program and the use of Teen Court funds** (In the past, Teen Court paid JSD for its referrals; however, that practice has been currently discontinued as a result of a depletion in Teen Court funding).

JSD: This is the County's centralized processing, referral and evaluation center for juveniles arrested in Miami-Dade County. Among its many responsibilities, **it refers cases to MDEAT's Teen Court for prevention/ intervention objectives and monitors the progress of these referrals as reported by MDEAT.** Therefore, MDEAT and JSD depend on each other to fulfill their goals and responsibilities with respect to, among other objectives, the success of the Teen Court Program.

In INQ 15-189, the Ethics Commission looked into the appropriateness of Roberts spending County time to attend MDEAT meetings. At that time, this office was not provided with sufficient information to determine whether

JSD matters would come for consideration or vote before the MDEAT, or how Roberts would be affected by such. See INQ 15-189.

There are several sections of the County Ethics Code which address County employees also serving in County advisory boards (and vice versa):

- Section 2-11.1(v) prohibits a member of a County advisory board from voting on any matter if :
 - 1) he/she will be directly affected by the board's action, and
 - 2) he/she has any of the specified relationships with any of the persons or entities appearing before the board (officer, director, partner, of counsel, consultant, *employee*, fiduciary, beneficiary, stockholder, bondholder, debtor, or creditor).

Roberts is an *employee* of JSD which consistently refers cases to Teen Court, an arm of MDEAT. Additionally, in his role as *board member* of the MDEAT, Roberts makes recommendations on Teen Court initiatives and the use of Teen Court funds. Subsequently, any issue coming before the MDEAT which may directly affect Roberts' position at JSD, specifically as it relates to Teen Court, may present a conflict requiring Roberts to recuse himself from participating and voting on the issue.

- Section 2-11.1(m) (1) prohibits a County employee from appearing before *any* County board or agency or meeting with staff or elected officials to make a presentation or to seek a benefit on behalf of a third party. As a County employee, Roberts may not make a presentation or appear before *any* County board seeking a benefit on behalf of MDEAT or any of its components. Section 2-11.1(m)(2) prohibits a board member from appearing before his own board to make a presentation on behalf of a third party with respect to any benefit sought by the third party. As a board member of MDEAT, Roberts may not appear before MDEAT or any of its components (ie., Youth Action Committee or Teen Court), to make recommendations or seek funding or other benefit on behalf of JSD.
- Section 2-11.1(h) prohibits a County employee and/or board member from disclosing confidential information acquired by reason of his/her official County position(s) or from using such information, directly or indirectly, for his personal gain or benefit. Consequently, Roberts is prohibited from sharing or disclosing confidential information acquired in his position as Juvenile Assessment Counselor with Teen Court personnel or MDEAT board members. Similarly, Roberts may not share or disclose confidential information obtained in his position as board member with JSD personnel. The fact that Roberts is privy to confidential information from these two entities which share common goals is clearly problematic.
- Section 2-11.1(g) prohibits a County employee and/or board member from using his/her County position(s) to secure special privileges or exemptions for himself/herself or others.
- Section 2-11.1(j) prohibits a member of a County advisory board or agency from accepting employment which impairs his/her independence of judgment in the performance of his/her public (board member) duties. In this instance, Roberts was a board member prior to his employment with the County, therefore, this provision of the County Ethics Code is applicable. Some factors which may be indicative of potential conflicts include:
 - 1) Whether his County employment is related to his public position;
 - 2) Whether as a board member, he comes into contact with the same or similar people or entities in his County employment;
 - 3) Whether as a board member, he uses the same or similar resources as the ones used in his County employment;
 - 4) Whether as a board member, he interacts with other County employees, even for routine matters;

- 5) Whether the board in which he serves provides funding or contracts with the County his Department (JSD)
See Ethics Commission's "Outside Employment Guidelines" Memorandum (September 2014)

Roberts' responsibilities as a Juvenile Assessment Counselor for JSD are evidently affiliated to the board in which he serves through his involvement referring cases to the Teen Court, a program implemented and subsidized by his own board. Additionally, Roberts comes into contact with the same or similar people in both of these positions since his County position requires him to interact with Teen Court Juvenile Service Specialists on a daily basis. Of equal concern is the fact that the board in which he serves, MDEAT, has an arrangement with JSD to receive and monitor referrals for its Teen Court Program. Lastly, although the board is not currently paying JSD for referrals due to its depleted source of funding, JSD has received payment in the past for its case referrals and it is within the power of the board to recommend such arrangement in the future.

It is evident that JSD's role and MDEAT's purpose and objectives are inextricably connected. Roberts' public duties as a Juvenile Assessment Counselor for JSD present potential conflicts of interest with his role as an MDEAT board member. Also, his initial position as a board member of MDEAT followed by his employment with the County as a Juvenile Assessment Counselor for JSD inevitably exposes him to situations impairing or hindering his independence of judgment in the performance of his duties as a board member. Clearly, the decisions or recommendations made by MDEAT, as the parent organization of Teen Court, may impact Roberts' work at JSD. Unless there is an agreement which contemplates that representatives of JSD will sit as members of MDEAT, it is recommended that Roberts not serve on the board while employed by JSD.

This opinion is based on the facts as presented. If any of these facts change, please contact us.

Sincerely,

Martha D. Perez

Staff Attorney

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

19 West Flagler St. Suite 820

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From: Pollock, Traci (MDEAT)
Sent: Tuesday, February 09, 2016 9:27 AM
To: Perez, Martha D. (COE)
Subject: RE: MDEAT Board -- Responses

Thank you.

Please see responses in yellow highlight.

tp

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MDEAT

Miami-Dade Economic
Advocacy Trust

Working Together for Economic Change

"Delivering Excellence Every Day"

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From: Perez, Martha D. (COE)
Sent: Tuesday, February 09, 2016 8:57 AM
To: Pollock, Traci (MDEAT)
Subject: RE: MDEAT Board -- Part II

Good morning Traci,

Please provide me with the following information so that I have a clear picture of this inquiry:

1) When was Mr. Roberts hired by JSD? Not sure of the exact date but sometime last year after the appointment to the board.

2) At the time he was hired by JSD, he was already a board member, correct? Yes.

3) Please describe the purpose/responsibilities of the board. According to the ordinance, (b) *the purpose of the Trust shall be to ensure the equitable participation of Blacks in Miami-Dade County's economic growth through advocacy and monitoring of economic conditions and economic development initiatives in Miami-Dade County.* (d) *Notwithstanding the independence of the Trust, this Board may by resolution take any action to effectuate the purposes of the Trust. Further. . .*

Sec. 2-506. Powers and duties of the Trust.

The Trust, acting through its governing body, shall be authorized to exercise such powers and shall be required to perform such duties as are hereinafter provided:

(a) Every five (5) years, the Trust shall establish a five-year comprehensive plan (hereinafter "the plan"). The plan shall contain one-year goals and objectives, the completion of which shall be needed to accomplish the comprehensive plan. The first plan shall be submitted to the Board of County Commissioners for approval.

(b) The Trust shall be empowered to expend administrative and programmatic resources to achieve each of its one-year goals and objectives as well as to accomplish and complete each five-year plan.

(c) The Trust shall identify and develop a variety of alternative funding sources and shall seek and apply for State, federal and private grants, including but not limited from philanthropic and non-tax based sources.

(d) The Trust shall serve as an advocate for and providing of the economic conditions and economic development initiatives in Miami-Dade County.

(e) The Trust shall submit to the Board an annual scorecard that reflects the performance of those entities, (both public and private) charged with and funded to improve conditions in blighted communities.

(f) The Trust shall conduct a disparity study that examines the present economic conditions of Blacks in Miami-Dade County. This study shall be conducted every ten (10) years and submitted to the Board.

(g) The Trust, as an agent and instrumentality of Miami-Dade County, shall be authorized to act for Miami-Dade County in the performance and enforcement of all contracts and, subsequent to the effective date of this chapter and subject to the limitations set forth below, shall additionally be empowered to negotiate and

execute such contracts as are properly within the powers and duties of the Trust. However, the Trust shall not without the prior approval of the Board of County Commissioners, enter into or amend any contract which shall require the expenditure of funds in excess of the amounts appropriated to the trust by the Board of County Commissioners.

The Trust shall comply with the formal bid requirements of Section 4.03(D) of the Charter of Miami-Dade County, Florida, and for such purpose the term "board" as used in Section 4.03(D) shall be construed to be "board of trustees" and the term "manager" shall be construed to be executive director of the Trust.

For all construction contracts, the trust shall comply with the provisions of Section 10-38 of the County Code and the administrative procedures adopted pursuant to said section.

For all purchases of commodities and services, the trust shall comply with the provisions of Section 2-8.2 of the County Code and the administrative procedures adopted pursuant to said section.

(h) The Trust's budget requests shall be prepared and submitted in the same manner as the budget for a County department and will be considered as part of the Miami-Dade County budget process. The Trust's budget requests shall be prepared in a format prescribed by the County Manager.

- 4) If you know, what are Roberts' duties/ responsibilities for JSD? I am not sure but his title in the county system says **Juvenile Assessment Counselor**, Juvenile Services. I know our case managers (juvenile service specialists) have told me that he sends them cases as a part of his job. And from what I was told by the executive director he was asked by his boss to resign from the board to minimize any potential conflict; however, he has not done so. He also serves on the board's Youth Action Committee (YAC) that makes recommendations about the use of Teen Court funds at the beginning of the fiscal year. Up until FY 2015-2016, this budget included a \$120K payment to JSD for referrals. However, after 4-5 years of paying JSD such a hefty amount, the program is now suffering financially because its dedicated source of funding has been decreasing for the past several years. This is the first fiscal year we have not paid JSD in more than 4-5 years.
- 5) What is the connection between JSD and the EAT? MDEAT receives its referrals from JSD for its Miami-Dade County Teen Court program. Does the EAT oversee, administer or otherwise "work in conjunction" with the JSD? Yes. MDEAT works in conjunction with JSD through the receipt of cases (referrals) as a prevention/intervention program for JSD and reports to JSD on the progress of these cases throughout their stint with the teen court program.
- 6) What is the EAT's connection to the Teen Court? MDEAT is the parent organization of Teen Court. MDEAT has two programs with dedicated sources of funding to administer; Teen court is one of these programs.

Appreciate your anticipated responses.

Sincerely,

Martha D. Perez

Staff Attorney

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From: Pollock, Traci (MDEAT)

Sent: Monday, February 08, 2016 12:47 PM

To: Perez, Martha D. (COE)
Subject: RE: MDEAT Board -- Part II

And at the time Ruban Roberts was appointed to the board on June 30, 2015, he did not work for JSD. He was in private practice.

tp

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From: Pollock, Traci (MDEAT)
Sent: Monday, February 08, 2016 12:44 PM
To: Perez, Martha D. (COE)
Subject: MDEAT Board

Hi Martha,

I received an email response from you from a board member LaTonda James regarding a campaign donation and wanted to know if you could provide some insight regarding another board member situation.

Ruban Roberts is a board member who apparently provides cases to the agency's **Miami-Dade County Teen Court** program which I oversee as it relates to the agency's operations.

I've been told by one of the program's juvenile service specialists that Mr. Roberts who works for JSD contacted him via email regarding reports and a status about individual cases as a part of his job responsibility at JSD. Mr. Ruban also left a voicemail message on my private cell phone in December (*which I just retrieved last week*) about JSD's concern about JSD not receiving monthly reports.

This is the first time I've experienced a board member's involvement in the day-to-day operation of the agency.

Please advise if there should be some type of boundary regarding board members and the agency's operations.

Thanks.

tp

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