

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, January 18, 2018 2:35 PM
To: Sanchez, Rodzandra (COE)
Subject: FW: INQ 18-06, Shirley Plantin, Community Advocacy Program Officer 2, Community Relations Board (outside employment)

INQ 18-06 Plantin

From: Turay, Radia (COE)
Sent: Tuesday, January 16, 2018 3:03 PM
To: Diaz, Rene (Advocacy) <Rene.Diaz3@miamidade.gov>
Cc: Plantin, Shirley (Advocacy) <Shirley.Plantin@miamidade.gov>; Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>
Subject: INQ 18-06, Shirley Plantin, Community Advocacy Program Officer 2, Community Relations Board (outside employment)

Dear Dr. Plantin,

You have inquired whether a conflict of interest exists under the Ethics Code between your County employment and your proposed outside employment as the Executive Consultant for U-turn Youth Consulting, LLC.

Background

- You are Community Advocacy Program Officer 2, for the Community Relations Board (CRB).
- The primary mission of the CRB is to intervene and contain community tensions as quickly as possible. The secondary mission of the CRB is: to work proactively to identify and relieve intergroup conflicts before crises arise; to develop bridges of understanding and support programs in the community; to foster understanding, communication, and mutual respect; to develop and support local or city-based community relations boards throughout the County; and to assure that resources are in place to respond to a community crisis. The CRB serves as an advisor to the Mayor, Board of County Commissioners and the County administration on issues that affect intergroup relations. It is our understanding that the group does not make recommendations regarding the hiring of any private firms to work with the County. It also does not have any oversight over any County contracts.
- Your current job responsibilities as Community Advocacy Program Officer 2 for the CRB include meeting with County leaders regarding community tensions; serving as program staff for Community Relations Board; representing CRB before several community boards, committees, and task forces; performing assessment of community incidents and conflicts; monitoring community tension; supervising staff in the development of various community programs; and developing educational and informational radio and television programs.
- You are in the process of authoring a book, that specifically addresses the realities that youth face in their daily lives, and what leads them to juvenile delinquency. The book will be released under a company you own, U-turn Youth Consulting, LLC, a youth consulting firm. The expertise that you relied on while writing your book was mainly based on your twenty years of experience dealing with youth issues prior to your County

employment. You are seeking to engage in outside employment as the Executive Consultant for U-turn Youth Consulting, LLC.

- In your role as Executive Consultant you will promote the published book at book fairs and literary clubs; seek contracts to facilitate trainings and workshops; serve as a guest speaker at conferences and seminars; and supervise other consultants and interns. You hope to eventually contract with Miami-Dade County by providing trainings, presentations, conferences, and speaking engagement to various County government departments.
- You will not seek to do business with the CRB.

Legal Analysis

OUTSIDE EMPLOYMENT

Sections 2-11.1(j) and (k) of the County Ethics Code prohibit County employees from engaging in outside employment which would impair the County employee's independence of judgment in the performance of his or her official duties. Specifically, Section 2-11.1(j), prohibits *conflicting* outside employment: "No [County employee] shall accept other employment which would impair his or her independence of judgment in the performance of his or her public duties." See also AO 7-1 (County's administrative order reiterates that, "under 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 Ethics Ordinance is intended to prevent both corrupt behavior and an appearance of corruption where a public employee may be perceived as having conflicting loyalties that interfere with his or her independence of judgment in making a decision or recommendation connected to his or her official duties. See INQ 15-49. Additionally, State law prohibits an employee of an agency from having or holding any employment or contractual relationship that will create continuing or frequently recurring conflicts between his private interests and the performance of his public duties. §112.313(7)(a), Fla. Stat. With respect to County employees, approval to engage in outside employment is at the discretion of the employee's department director, who may consider whether an appearance of impropriety exists. See INQ 15-22.

In general, if an employee's outside employment is totally unrelated to his/her County employment, conflicts would generally not arise. In previous opinions, the Ethics Commission has found that outside employment conflicts with government employment *when the two pursuits overlap or are closely related*. See RQO 12-11, INQ 12-159. For example, in RQO 15-03, the Commission found that an IT Senior Analyst should not be permitted to engage in outside employment as an IT consultant for a private client because the outside employment was closely related to the work he performed for the County, and divided loyalties were likely to develop between his County employment and his private employment.

Conflicting outside employment has also been found in the following situations:

- *When the County employee works in a position where he/she has the opportunity to recruit members of the public to use his/her outside employment; the County employee has access to non-public information which may become relevant to his/her private employer.* For example, in RQO 99-50, the Ethics Commission opined that an Airport employee should not be allowed to engage in outside employment with an Airport contractor because the outside employment might improperly the performance of his public duties and might induce him to use confidential information to benefit his private employer;
- *When the County employee's private outside employment may place him/her in a situation where his/her private economic considerations may override the faithful discharge of his/her County duties.* See RQO 15-03.
- *If the County employee provides services for County residents in his/her County department and then provides services for the same County residents in his/her outside employment;*
- *If the County employee were to solicit business for his/her outside employment while working at the County department.* Of equal concern would be if other County personnel refer County residents to the County employee. See §2-11.1(p), County Ethics Code; INQ 07-94.

I have attached the Ethics Commission “Outside Employment Guidelines” Memorandum (September 2014), which outlines a number of additional fact patterns that may create conflicting employment. These are examples of situations which indicate a conflict between the County’s interests and the outside employment. However, A County department may also impose stricter guidelines on outside employment than are found in the County Ethics Code, Ethics Commission guidelines or opinions.

After a review of all of the facts presented, it appears unlikely that the type of outside employment that you are seeking to engage in would impair your independence of judgment in the performance of your County duties for the following reasons:

- CRB does not have any standing programmatic functions except to monitor and intervene in community tensions (ex. riots, rallies, protests) when they arise.
- The CRB does not have standing Memorandum of Understanding (MOU) or Memorandum of Agreements (MOA) for exchange in services or goods with community-based organizations (CBOs). The extent of the CRB’s relationship with CBOs is limited to in-kind donations, for either usage of space or knowledge for a particular forum hosted by the Board.
- The CRB does not deal with, provide service to, or address youth issues, unless it is in the form of a community tension similar to that of the Trayvon Martin case, or a spike in youth gun violence where the community is expressing tension.

However, please note that we agree with your supervisor Mr. Rene Diaz that the following **limitations will apply**:

- Your supervisor, Mr. Rene Diaz, has indicated that you will recuse yourself on any matters relating to youth issues arising before the CRB.
- You may not use County time or resources in the furtherance of your outside employment. See, Miami-Dade Code § 2-11.1(g).
- You are prohibited from using any confidential information acquired as a result of your County employment to derive a personal benefit. See Miami-Dade Code § 2-11.1(h); and
- You cannot represent U-turn Youth Consulting, LLC, or any of its clients in any matter before the County. See Miami-Dade Code § 2-11.1(m)

Furthermore, we remind you that all county employees engaged in outside employment must obtain permission to engage in that employment on a **yearly** basis. Miami-Dade Code § 2-11, Administrative Procedure 7-1, and Procedure 403. Full-time County employees are also required to file an Outside Employment Statement on a **yearly** basis. See Miami-Dade Code § 2-11.1(k)(2).

CONTRACTING WITH THE COUNTY

U-turn Youth Consulting, LLC may enter into a contract with Miami-Dade County as long as the contract/workshops does not interfere with the full and faithful discharge of your duties to the County. See the County Ethics Code at Secs. 2-11.1(c)(2) and (d).

This includes the condition that you may not participate in determining the contract/workshop requirements or in awarding the contract. Additionally, none of your County job responsibilities and job descriptions may require you to be involved in the contract/workshops in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance. Finally, you may **not** work in any County department that would enforce, oversee or administer the contract/workshop. Consequently, U-turn Youth Consulting, LLC may not enter into contracts with the CRB.

LOBBYING

Additionally, you may not lobby the County. In this case, you may not contact anyone within the County in an attempt to promote your book, or influence a decision about any contract or agreement you are seeking through your self-employment. See the County Ethics Code at Sec. 2-11.1(m)(1).

This opinion is based on the facts presented. If any of the facts presented here change, or if you have any further questions, please contact us.

Sincerely,

RADIA TURAY

Staff Attorney
Miami-Dade Commission on Ethics and Public Trust
19 W. Flagler Street, Suite 820
Miami, FL 33130
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From: Diaz, Rene (Advocacy)
Sent: Friday, January 12, 2018 12:38 PM
To: Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Cc: Plantin, Shirley (Advocacy) <Shirley.Plantin@miamidade.gov>
Subject: RE: Outside employment

Ms. Turay,

My Apologies in my delay in responding. Please proceed as stated in the opinion, I see no problem with what is suggested, and I am in support. Please accept this as my approval to move forward with the opinion.

Best,

René Díaz, Director
Office of Community Advocacy
Office of the Chair

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OFFICE OF COMMUNITY
ADVOCACY

OFFICE OF THE CHAIR
BOARD OF COUNTY COMMISSIONERS



From: Turay, Radia (COE)
Sent: Wednesday, January 10, 2018 3:09 PM
To: Diaz, Rene (Advocacy) <Rene.Diaz3@miamidade.gov>
Subject: RE: Outside employment

Hello Mr. Diaz,

I am just following up on the below. Please advise of any additional limitations that you want me to include in our opinion.

Thanks,
Radia.

From: Turay, Radia (COE)
Sent: Monday, January 08, 2018 2:45 PM
To: Diaz, Rene (Advocacy) <Rene.Diaz3@miamidade.gov>
Subject: RE: Outside employment

Hello Mr. Diaz,

I have drafted the opinion regarding Ms. Plantin's outside employment. Please advise whether you find the limitations acceptable, and/or whether you want us to include anything additional.

Thanks,
Radia.

From: Diaz, Rene (Advocacy)
Sent: Wednesday, December 13, 2017 2:37 PM
To: Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Plantin, Shirley (Advocacy) <Shirley.Plantin@miamidade.gov>
Subject: RE: Outside employment

Ms. Turay,

Ms. Plantin has been out of the office and is expected to return tomorrow 12/14 – kindly advise of your availability to coordinate a conference call.

Many thanks,

René Díaz, Director
Office of Community Advocacy
Office of the Chair

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Fax: (305) 375-5715
Email: rened@miamidade.gov

ADVOCACY



From: Turay, Radia (COE)

Sent: Tuesday, December 12, 2017 2:38 PM

To: Diaz, Rene (Advocacy) <Rene.Diaz3@miamidade.gov>; Plantin, Shirley (Advocacy) <Shirley.Plantin@miamidade.gov>

Subject: Outside employment

Hello Mr. Diaz and Dr. Plantin,

I am available for a conference call anytime tomorrow. Please let me know what time works best for you both.

Thanks,

RADIA TURAY

Staff Attorney

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