

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Wednesday, May 09, 2018 11:54 AM
To: Sanchez, Rodzandra (COE)
Cc: Murawski, Michael P. (COE)
Subject: FW: INQ 18-94 Raul Aguila, City Attorney, City of Miami Beach (Contracting with City, Section 2-11.1(c))
Attachments: RQO 18-02 Caballero.pdf

INQ 18-94 Aguila

From: Centorino, Joseph (COE)
Sent: Monday, April 16, 2018 4:31 PM
To: 'Aguila, Raul' <RaulAguila@miamibeachfl.gov>
Cc: Paz, Rafael <RafaelPaz@miamibeachfl.gov>; jimmymorales@miamibeachfl.gov; Brooks, Kathie <KathieBrooks@miamibeachfl.gov>; Silverstein, Eva <EvaSilverstein@miamibeachfl.gov>
Subject: INQ 18-94 Raul Aguila, City Attorney, City of Miami Beach (Contracting with City, Section 2-11.1(c))

Raul,

This is in response to the issue raised in your email below, regarding whether it would be appropriate for a member of the City of Miami Beach Blue Ribbon Panel, which acts as an ad hoc advisory board to the City regarding, to participate as a deejay at the concert that is occurring in connection with the upcoming Memorial Day festivities in the City, where whatever agreement or contract is entered into by the board member, it will be with the Event Coordinator rather than with the City. It is clear that the Blue Ribbon Panel has had little involvement with the actual planning of the event; that the individual involved, DJ Irie, has not had and will not have any oversight authority over the activity in question. The DJ might be considered a subcontractor of the Event Coordinator, although the exact nature of that agreement is not completely clear, and DJ Irie will receive no compensation for his work and is essentially volunteering at an event that the City feels is an important public event promoting the City's interests.

I recognize the need for an expeditious answer to this question. While there may be some question as to whether this particular board is even covered by the County Ethics Code in light of its ad hoc nature, I will assume for the purposes of this opinion that it is. I do not see any reason by DJ Irie should not perform as planned. Under a recent opinion, RQO 18-02 (attached), the Commission has held that Section 2-11.1(c)(1) does not apply to subcontracts with a prime contractor with the County/Municipality. Therefore, his business arrangement with the Event Coordinator would not be prohibited under that section. It does not appear that DJ Irie, based on the facts presented, has in any way acted in an official capacity to get a special benefit, or used his position to gain some inappropriate favor from the City or its contractor. In fact, it would appear that the motivation is to help the City to have a successful event. It is also apparent that the voluntary nature of his involvement will not result in any inappropriate benefit to him gained as a result of his City position.

Therefore, there is no need for him to seek any further opinion from us under Section 2-11.1(c)(4).

Sincerely,

Joe Centorino

Joseph M. Centorino

Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust
19 W. Flagler Street, Suite 820
Miami, FL 33130
Tel: (305) 579-2594
Fax: (305) 579-0273
ethics.miamidade.gov



From: Aguila, Raul [<mailto:RaulAguila@miamibeachfl.gov>]
Sent: Monday, April 16, 2018 1:41 PM
To: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>
Cc: Paz, Rafael <RafaelPaz@miamibeachfl.gov>; jimmymorales@miamibeachfl.gov; Brooks, Kathie <KathieBrooks@miamibeachfl.gov>; Silverstein, Eva <EvaSilverstein@miamibeachfl.gov>
Subject: REQUEST AS TO WHETHER A CONFLICT OF INTEREST OPINION IS REQUIRED REGARDING CMB ADVISORY BOARD MEMBER'S PARTICIPATION IN MEMORIAL DAY WEEKEND CONCERT

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Dear Joe:

I am requesting clarification regarding County Code Section 2-11.1(c) (1)-- "Prohibition on Transacting Business within the County"—and its applicability to the facts below.

On February 1, 2016, the City entered into an Agreement with A National Salute to America's Heroes, LLC (Vendor or Contractor), giving Vendor the right to produce and conduct the Air and Sea Show special event during the 2017 Memorial Day Weekend (the Event). Following a successful Event in its first year, the City opted to continue with the Event for the upcoming Memorial Day Weekend 2018 and, additionally, approved an amendment to the existing Agreement (Amendment No. 3, dated March 29, 2018), expanding the scope of the Event to include a proposed free public concert as part of the Event festivities. While the City Manager would retain certain approval rights with respect to the approval of the line-up of artists who would perform at the concert, the Vendor/Contractor would be solely responsible for the production and handling of the concert event. Further, the Contractor, and not the City, would be required to enter into any and all required agreements with the approved artists scheduled to perform at the proposed concert. The City would in no way be in privity of contract with any artist performing at the concert.

On or about September 2017, Mayor Levine created a Memorial Day Blue Ribbon Panel, as an ad hoc advisory board to the City, whose mission—in part—included making recommendations as to special events during the City's Memorial Day Weekend (including City sponsored events), and to consider diversity and inclusive cultural programming and marketing for the Weekend festivities. One of the panel members is Ian Grocer, aka "DJ Irie." A popular and well known South Florida deejay and personality, Irie does a lot of charitable fundraising and works with, among others, the Miami Heat on charitable initiatives. He also organizes a weekend festival in Miami Beach in June, and Mayor Levine thought his input to the Committee would be helpful.

The advisory panel has had little or no involvement thus far with regard to the proposed Memorial Day Weekend concert. The Contractor is now seeking DJ Irie's participation in the concert, to serve as deejay in between the live performances. Any agreement would be entered into between the Contractor and Irie ; the City would not be a party to the contract . Further, DJ Irie has stated that he would perform any services, FREE OF CHARGE, with no remuneration due.

The question I have is whether, from the facts stated above, where the advisory board member (Irie) would be contracting not with the City, but directly with the Event Contractor and where, further, any such agreement between them would be for no compensation, am I (on behalf of the advisory board member, DJ Irie) required to seek a conflict of interest opinion from the Ethics Commission, pursuant to 2-11.1(c)(4), prior to Irie and the Event Contractor entering into the aforesaid agreement (That is, if they even intend to enter into one to confirm Irie's free participation in the concert; since the City's not a party to their understanding, I don't know).

I do not think that 2-11.1(c)(4) applies under the facts presented to me by the parties, and as set forth above. Even if it does not, however, I think it would be in the City's best interest, in order to to avoid any perception issues, that DJ Irie voluntarily resign from the Memorial Weekend Blue Ribbon Panel (if he intends to deejay at the concert).

Since the Event Contractor is in the process of finalizing the concert details, and Memorial Day Weekend is almost upon us, time is of the essence. Please advise if you concur with my conclusion or whether, in the alternative, should you opine that 2-11.1(c)(4) does apply, then what should me next steps be.

Thank you, as always, for your assistance, guidance, and professional courtesy.

Regards,

Raul

RAUL J. AGUILA, *City Attorney*
OFFICE OF THE CITY ATTORNEY
1700 Convention Center Drive, Miami Beach, FL 33139
Tel: 305-673-7470 Ext 6475 / Fax # 305-673-7002
raulaguila@miamibeachfl.gov

www.miamibeachfl.gov

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