



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Honorable Rebeca Sosa
Vice Chair and District 6 Commissioner

FROM: Jose Arrojo, Executive Director
Commission on Ethics

SUBJECT: INQ 19-120, County Client/Vendor Travel, Cruise Line Travel, 2-11.1(w)

DATE: November 15, 2019

CC: All COE Legal Staff
Hydi Webb, Deputy Director, Port Miami

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding the following proposed transaction.

Facts:

You have advised that Norwegian Cruise Line (NCL), one of the largest cruise lines in the world by passengers, and based in Miami, is a client/vendor of Port Miami. NCL is showcasing its newest ship, the Encore, in an inaugural cruise geared towards cruise/tourism industry representatives and local government officials on November 21, 2019. The Encore will thereafter be sailing regularly from Port Miami. This will have an economic impact on the Port and the greater Miami-Dade community.

The inaugural cruise is expected to sail from Miami on November 21, 2019 and return from sea to Port on November 24, 2019.

Vice Chair and District 6 Commissioner Commissioner (BCC), Rebeca Sosa, also serves as the Chairwoman of the BCC's Economic and Tourism Committee that has policy oversight over the seaport.

Juan Kuryla is the Port Director and his senior staff includes Hydi Webb, the Deputy Director, Basil Binns, an Assistant Director, and Andy Hecker, Assistant Director and CFO.

Commissioner Sosa, Director Kuryla, and members of his senior staff have been offered the opportunity to sail on the Encore's inaugural cruise because of their policy and operational leadership positions over the port and its clients/vendors, including NCL. Cruise and tourism officials will be traveling gratis on the inaugural cruise, but local government officials are being charged a travel fee per night.

During the cruise, County officials will be meeting and interacting with the ship's Captain and other members of the NCL corporate leadership team as well as cruise/tourism industry representatives. Additionally, there will be at least one official function where the ship captain and NCL corporate representatives will be recognized for their commitment to Port Miami and greater County tourism with an official proclamation.

Issue:

May the Vice Chairwoman accept the inaugural cruise invitation and if so, may county funds may be used to pay for the travel?

Discussion:

The issue presented is dissimilar to one involving the acceptance by Port Miami employees of a free cruise from another Port Miami client/vendor, Disney Cruise Line. (INQ 12-229). In that instance, a port employee won a free cruise in a raffle. We opined at that time that §2-11.1(w), of the Conflict of Interest and Code of Ethics Ordinance (Ethics Code) prohibits county officials or employees from accepting, directly or indirectly, any travel expenses, including, but not limited to transportation, lodging, meals, registrations fees and incidentals from any County contractor, vendor, service provider, bidder or proposer. This restriction may be waived by a majority vote of the County Commission. Because the cruise line was a county contractor or service provider, the prohibition would extend to port employees' acceptance of the complimentary cruise unless a waiver was granted by the County Commission.

The present situation is more like the ones presented involving the inaugural cruises of prior NCL and Royal Caribbean Cruises Ltd. (RCCL) ships and cruise line invitations to elected officials and Port Miami senior staff.

In those prior cases, we opined that §2-11.1(w) Ethics Code prohibitions would apply regarding county officials' acceptance of a *free* inaugural cruise. However, if participation in the inaugural cruise had significance to Port Miami officials because of its partnership with the cruise line that sails out of the Port, and there would be some legitimate public benefit accruing to the County because of the networking opportunities available with cruise/tourism officials, then they may accept the cruise invitation and either apply for a waiver from the County Commission, or have the County pay for costs associated with the travel, or personally pay for the cruise. (*See* INQ 13-101, INQ 15-182, INQ 18-237)

Another provision of the Ethics Code may be implicated by the above described factual scenario is § 2-11.1 (e)(4) of the Ethics Code. That section requires disclosure of any gift having a value of \$100 or more. In this instance, meals and beverages will be provided to the county officials sailing on the inaugural cruise. However, because meals and beverages will be included in the cost per night cost of the cruise that is anticipated will be paid with county funds, then consideration has already been paid and these meals and beverages would not be considered gifts that must be reported. (*See* RQO-110)

Finally, it may be that in addition to the Vice Chairwoman, other members of the BCC may also be traveling on the ship. Florida's Government in the Sunshine Law, s. 286.011, F.S., commonly referred to as the Sunshine Law, provides a right of access to governmental proceedings of public commissions at both the state and local levels. The law applies to any gathering of two or more members of the same board to discuss some matter which will foreseeably come before that board for action. Members of a public commission are not prohibited under the Sunshine Law from meeting together socially, as they may while traveling on this ship, provided that matters which may come before the commission are not discussed at such gatherings. Therefore, there should be no discussion among officials during the voyage on matters relating to public business that may come before the BCC.

Opinion:

NCL is a client/vendor of Port Miami and the Encore is a new ship that will begin sailing from Port Miami in November 2019. The inaugural cruise is geared to cruise/tourism officials, cruise line executives and specified county officials engaged with the port in policy or operational capacities. It has been represented that there is a legitimate public purpose for the officials' travel and there will be at least one governmental function during the cruise.

Accordingly, the Vice Chairwoman Sosa (and Port Miami Director Juan Kuryla and his senior staff) may accept an invitation to the inaugural cruise of the Encore, operated by County vendor/client NCL, if the costs of the cruise are paid with county funds because there is a legitimate public purpose for the trip. Meals and beverages included in the per night fee to be paid would not be considered gifts that have to be reported.

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics. Additionally, guidance regarding Florida's Sunshine Law may be obtained from the Florida Attorney General.

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.