





MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Arturo L. Ruiz, Director of Administration
City of Hialeah Gardens

FROM: Jose Arrojo
Executive Director 
Gilma Diaz-Greco, Staff Attorney 
Commission on Ethics

SUBJECT: INQ 20- 03, Conflicting Outside Employment, Sections 2-11.1 (j) and (k), County Code of Ethics

DATE: February 3, 2020

CC: All COE Legal Staff
Honorable Yioiset De La Cruz, Mayor of Hialeah Gardens
Charles A. Citrin, Esq., City Attorney, Hialeah Gardens

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest in your proposed outside employment.

Facts:

You are employed at the City of Hialeah Gardens (“HG”) as the Director of Administration (“DOA”). You would like to engage in outside employment as an independent contractor in sales and marketing with Citrin Financial and Insurance, Inc. (“CFI”), a private entity owned by Charles Citrin, the HG City Attorney.

CFI provides financial and health insurance products and services to persons, private entities, and local governments. CFI does not provide any services to HG nor is it an HG vendor. Your duties at HG do not include supervision of the City Attorney or his staff. The City Attorney does not supervise you or your staff in your role as DOA.

Issue:

Whether any prohibited conflicts of interest may exist between your HG City employment and your proposed outside employment as an independent contractor in sales and marketing with CFI.

Background:

As background, you are employed at HG as the DOA for the city. Your position as DOA reports directly to the City Mayor, under HG's strong mayor form of government. Your job duties include administration and oversight of some of the City's departments which are the Building, Zoning, Code Compliance, Maintenance, Parks and Recreation, Public Works, Water and Sewer, and Business Tax Receipts departments.

Your job duties do not involve the selection, administration or oversight of the City Attorney nor of his staff, nor negotiation or involvement in any HG insurance matters or contracts. Furthermore, the City Attorney does not supervise any aspect of your City job duties nor any job duties of the City staff you oversee.

The City employs the Law Firm of attorney Charles A. Citrin, to serve as HG's City Attorney. Your interaction with the HG City Attorney is limited to communication with the City Attorney in occasional instances where the Mayor, who is primarily involved in negotiating vendor contracts, requests assistance in negotiation of non-insurance vendor contracts and the City Attorney reviews these contracts for language, format, and legal sufficiency.

Mr. Citrin is also a principal in the private company CFI, a Florida corporation that markets and sells financial and insurance products and services to persons, private entities, and local governments. CFI does not transact any business with HG nor is it a city vendor. (See COE PI 19-33 Final Report)

You are seeking outside employment with CFI as an independent contractor and sales associate. Your duties with CFI would involve marketing, research, business development, and sales in the firm's insurance products service area. You advise that this marketing and sales work for CFI would target clients in unincorporated Miami-Dade County and other municipalities but would not include any marketing or sales to any person or entity within HG. Furthermore, this work would occur outside of HG work hours, and that the job would not require use of any city resources.

We have consulted with the City Mayor who confirmed that your City job duties do not involve the selection, administration or oversight of the City Attorney nor of his staff nor negotiation or involvement of any City insurance matters or contracts, and that CFI is not a City Vendor.

Analysis and Opinion:

Several sections of the Miami-Dade Code of Ethics, which covers municipalities in Miami-Dade County, must be considered in analyzing whether a City employee's outside employment may create prohibited conflicts of interest.

Sections 2-11.1(j) and (k) prohibit City employees from engaging in outside employment which would impair the employee's independence of judgement in the performance of his or her public duties.

Section (g) of the County Ethics Code prohibits City employees from using their official position to obtain special privileges or exemptions for themselves or their outside employers. Overseeing, administering, being involved in the selection or recommendation of any current or future contract that the employee's outside employer may have with the City, and/or the use of City time or resources in the performance of outside employment, may constitute an "exploitation of official position" in violation of Section 2-11.1(g) of the County Ethics Code.

The Ethics Commission has also provided opinions regarding local governmental employees engaged in outside employment with vendors of the city that employs them. For example, the Commission on Ethics determined that conflicting employment would likely occur where the employee is employed by a City vendor that services the facilities where the employee performs his or her City duties; where the employee routinely interacts with employees of the City vendor during his or her City work hours; or the employee or his or her supervisor are responsible for oversight or management of the City vendor employees. (*See* RQO 16-02 and INQ 11-67)

The Ethics Commission reasoned in those opinions that the outside employment with a vendor that contracted with the department where the employee worked would likely improperly affect the employee's relationships with his public agency co-workers and might induce him to use confidential information to benefit his private employer.

In this instance, based on the facts presented here, and after discussing this matter with the administration at HG, we concur with the City that your proposed outside employment as a Marketing and Sales consultant with CFI is unlikely to create conflicts of interest.

Your public duties as a DOA for HG are not closely related to your outside employment duties because your HG duties do not include negotiation or other involvement in any HG insurance matters nor involvement in the selection, administration or oversight of the City Attorney nor of his staff, nor direct or indirect contact.

Moreover, CFI is not a city vendor and you will not seek any business relationships with HG or any person or entity within the boundaries of HG; and your City job will not otherwise cause you to interact with the same or similar entities in your outside

employment that you interact with in your public duties. (See RQO 08-45 and RQO 09-16 and 2019 COE Outside Employment Guidelines)

In addition, your outside employment would occur outside of your HG hours of employment and the outside employment would not require use of City resources would be used for this job. (See COE Outside Employment Guidelines (2019))

Nevertheless, you must abide by certain limitations and cautions outlined below:

Use of City time or resources in the performance of your outside employment, may constitute an “exploitation of official position” in violation of Section 2-11.1(g) of the County Ethics Code. You may not use City time or resources (including but not limited to staff, phones, computers, databases, office or printing supplies, and vehicles) in your outside employment. Given that you and Mr. Citrin may be at HG at the same time as part of your municipal duties, the prohibition on use of City resources would include a prohibition on conducting any Citrin Financial business meeting with Mr. Citrin at HG facilities.

Pursuant to Miami-Dade Code Section 2-11.1(g), you may not use your City position to obtain special privileges or exemptions for yourself, for CFI or for any of CFI’s clients; this includes a prohibition on using information regarding City vendors which is not readily available to the public to market CFI services. (See RQO 99-40) In addition, while you may inform your potential clients that you have approximately two decades of municipal government and management experience, you may not use the HG seal nor your job title as HG’s DOA in your sales and marketing outside employment with CFI.

You may not disclose any confidential information, or use any confidential information gained in your City employment to benefit yourself, CFI, or the company’s clients. Miami-Dade Code Sec. 2-11.1(h).

You may not represent CFI nor any of its clients before any City board or agency. (Miami-Dade Code 2-11.1(m)(1) and RQO 04-173)

Finally, please also note that as long as you are engaged in outside employment you must follow any City policy regarding requesting permission to engage in outside employment. You must also file an outside employment financial disclosure form ([Outside Employment Statement](#)), reporting any money received from your employment with your municipal clerk. This form must include any money earned even if the business is not profitable; enter \$0.00 if the company received no money. (Secs. 2-11 and 2-11.1 (k)(2), County Ethics Code)

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.

We appreciate your consulting with the Commission in order to avoid possible prohibited conflicts of interest. If the facts associated with the project change, please contact us for additional guidance.

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.