



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Catherine Carbonell
Legislative & Policy Aide
Office of Commissioner Raquel Regalado, District 7

Josh D'Alemberte
Candidate for the Parks Citizens Advisory Committee

FROM: Loressa Felix, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2021-50

DATE: March 25, 2021

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest with your tentative appointment to the Miami-Dade Parks Citizens Advisory Committee.

Facts:

Joshua D'Alemberte has been selected for appointment to the Miami-Dade Park Citizens Advisory Committee. Mr. D'Alemberte owns and manages several business including D'Alemberte Sol, Inc., Teachers Who Tutor, Phoenix Beach Volleyball, and Phoenix Sports. Teachers Who Tutor, owned through D'Alemberte Sol, Inc., is a tutoring company that offers students kindergarten through 12th grade tutoring services in various subjects and test preparation. Phoenix Beach Volleyball and Phoenix Sports, a secondary business for Mr. D'Alemberte, which primarily teaches beach volleyball to children and adults at various parks throughout the County.

Phoenix Beach Volleyball and Phoenix Sports often rents space through individual municipalities, namely the City of Miami, to procure the space for beach volleyball teaching, lessons, and games. Mr. D'Alemberte does not contract with the County or with the City of Miami beyond his occasional park rentals on behalf of Phoenix Beach Volleyball and Phoenix Sports. Mr. D'Alemberte and his companies are not currently nor will they seek to become a County or City of Miami vendors.

The Parks, Recreation and Open Spaces Citizens Advisory Committee (PRCAC) enables local citizens to make recommendations to improve and promote parks facilities and programs in Miami-Dade County. Appointees are residents of Miami-Dade County who possess outstanding reputations for civic pride, interest, integrity, responsibility, and business or professional ability in the fields of recreation, natural resources, conservation and land use planning.

Issue:

Whether any prohibited conflict of interest would exist between your privately-owned companies' business transactions with City of Miami and/or other municipalities and your appointment to the PRCAC.

Discussion:

The Miami-Dade County Ethics Code at Sections 2-11.1 (c)(2) and (d) allow board members to enter into a contract, individually or through a firm, with Miami-Dade County, as long as the contract does not interfere with the full and faithful discharge of your duties to the County. *See* RQO 06-52. Notably, while it is clear that you have no contractual relationship with either the County or the City of Miami, it is important to note that you would not be prohibited from such dealings as a board member.

However, your inquiry may also implicate other sections of the Miami-Dade County Ethics Code. For example, Section 2-11.1(m)(2) of the Miami-Dade County Ethics Code prohibits a board member from receiving compensation, *directly or indirectly or in any form*, for any services rendered to the third party seeking a benefit from his or her board. *See* RQO 07-12; INQ 15-229; INQ 19-12.

As regards your voting as a member of the Board, Section 2-11.1(v) of the Miami-Dade County Ethics Code prohibits a board member from voting on any matter where the member will be directly affected by the vote and has a prohibited relationship (i.e., officer, director, partner, of counsel, consultant, employee, fiduciary, beneficiary, stockholder, bondholder, debtor, or creditor) with any corporation, firm, entity or person appearing before the member's board or committee.

Additionally, Section 2-11.1(m)(2) of the Miami-Dade County Ethics Code and Section 2-612(a) of the City of Miami Code, prohibit a board member from appearing before the City board in which he or she serves, *either directly or through an associate*, and make a presentation on behalf of a third party. *See* RQO 07-39; INQ 17-254. This means you must not lobby or try to influence your board for the benefit of your companies. *See* INQ 13-224.

A conflict exists where a member has an employment relationship with an entity that has an issue coming before his or her board *and* the member will be directly affected by the action of the board. *See* RQO 06-52; INQ 19-12. As you do not contract with either the County or the City of Miami, it is unlikely for there to be an issue before the PRCAC to create such a conflict.

Also, Section 2-11.1(g) of the Miami-Dade County Ethics Code prohibits a board member from using his or her official position to secure special benefits, privileges or exemptions for herself or others.

Conclusion:

For the reasons detailed above, and based on the facts presented, there is no prohibited conflict of interest that would arise from an application of the Miami-Dade County Ethics Code to your service as a member of the PRCAC in your position with your privately-owned companies.

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 your inquiry 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.