



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Joseph Hyde
Manager, District Court
Miami-Dade County Clerk of Courts

Keith Noble
Court Division Director
Miami-Dade Clerk of Courts

FROM: Radia Turay, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2021-60 [Outside Employment § § 2-11.1(j) and k(2), County Ethics Code]

DATE: April 5, 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 in your proposed outside employment.

Facts:

You are employed as a Manager of the Miami Beach Branch Court at the Miami-Dade Clerk of Courts (COC). Your job responsibilities include overseeing the daily operations of the Miami Beach Branch Court, and supervising COC's eight staff members assigned to the unit. You and your staff assist customers with traffic cases, criminal cases, misdemeanor cases, parking citations, marriage licenses, and the filing of civil lawsuits. Your duties also include purchasing office materials, inventory, and file destruction; assignment and verification of all work done at the branch; and acting as a liaison to resolve matters pertaining to building management and parking access for staff through the City of Miami Beach.

You would like to engage in outside employment as the real estate associate for Gold Pen Realty Group (GPRG). You advise that GPRG is not a County vendor. Your job duties will include assisting clients with the purchase, sale, rental, or assessing the value of real

property. You advise that you will not be required to come into contact with the same people, clients, or entities in your position with the County and with GPRG. You will not utilize the same or similar resources for your outside employment. Your outside employment would not require interactions with County employees, departments, or County boards. **Importantly, you will not perform your outside employment in Miami Beach.** Lastly, you advise that your work for GPRG would be performed outside of your County hours.

Issue: Whether any prohibited conflicts of interest exist between your employment as a Manager of the Miami Beach Branch Court and your prospective outside employment with GPRG.

Analysis and Opinion:

Sections 2-11.1(j) and (k) of the Miami-Dade 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/her official duties thereby creating a conflict between the employee's public duties and private interests. The County's Administrative Order 7-1 reiterates the general principle that County employees must conduct the public's business without even an appearance of conflicting loyalties: "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."

Miami-Dade County employees are required to obtain approval from their department directors/supervisors prior to engaging in outside employment. *See* County's Administrative Order 7-1. Directors/Supervisors may request an opinion from the Miami-Dade County Ethics Commission regarding conflicts of interest in outside employment. *See* INQ 19-101; INQ 13-28.

The County's Administrative Order No. 7-1 gives a County department director/supervisor the discretion to deny outside employment if he or she finds that it is contrary, detrimental, or adverse to the interest of the County and/or the employee's department. *See* RQO 16-02; RQO 00-10; INQ 12-49; INQ 13-28; INQ14-104; INQ 15-22; INQ 16-121.

As noted above, the Miami-Dade County Ethics Code prohibits County employees from engaging in outside employment that is likely to create conflicts of interest between the employee's County responsibilities and their outside job duties. Based on the information that you have provided to us at this time, it appears to be 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 as Manager of the Miami Beach Branch Court for the Clerk of Courts. This is because there is no overlap between your public duties and your outside employment; **you will not perform your outside employment in Miami Beach;** you will not use the same resources; and the work would be performed outside your County hours.

Nevertheless, you must abide by certain limitations and cautions outlined below to avoid a conflict:

- You may not use County time or resources in your outside employment. *See* Section 2- 11.1 (g), Miami-Dade County Ethics Code; INQ 19-123; INQ 20-43.
- **You shall not engage in activities that relate in any way to your outside employment during regular business hours, including phone calls, or any other communication and/or use of County resources (including but not limited to County computer programs, computer software licenses purchased by the County, phones, copiers, computers, fax machines, County vehicles, in connection with your outside employment, even after work).** *See* Sections 2-11.1 (j) and (g), Miami-Dade County Ethics Code; AO 5-5, AO 7-1; INQ 05- 29, and INQ 15-240.
- **You are prohibited from disclosing and/or using any confidential and/or proprietary information acquired as a result of your County employment to derive a personal benefit, or for the benefit of GPRG, or GPRG clients.** *See* Section 2-11.1(h), Miami-Dade County Ethics Code.
- You may not exploit your County position to secure special privileges or exemptions for yourself, or GPRG, or GPRG client. *See* Section 2-11.1(g), Miami-Dade County Ethics Code.
- You may not represent GPRG or GPRG clients before any County board or agency. *See* Section 2-11.1(m)(1), Miami-Dade County Ethics Code; RQO 04-173. Notably, while it does not appear that lobbying activities are a part of your potential duties for GPRG, it is important to note that you would be prohibited from doing any such activities on behalf of GPRG.
- You shall obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with your department director and shall file an Outside Employment Statement with the County's Elections Department by noon on July 1st of each year. *See* Section 2-11.1(k)(2), Miami-Dade 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.

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.