



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Cassandra Arnold  
Director of Constituent Services  
Mayor's Office

**FROM:** Jose J. Arrojo  
Executive Director

Martha D. Perez  
General Counsel

**SUBJECT:** INQ 2021-91, Sections 2-11.1 (k), (j), Outside Employment and Conflicting Employment Prohibited

**DATE:** June 10, 2021

**CC:** COE Legal Staff

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Thank you contacting the Miami-Dade County Commission on Ethics and Public Trust and for requesting ethics guidance regarding the application of the County Ethics Code to your service as a voluntary member of several non-for-profit corporate boards and committees, as the Executive Director of one non-for profit, and as a principal/member and President of a for-profit company.

Facts:

You are the County Mayor's Director of Constituent Services. You also serve as the Mayor's spokesperson for Haitian American affairs. As part of your public duties, you regularly and publicly interact with the Mayor's constituents, with an emphasis on our Haitian American community.

You serve as voluntary member of several non-for-profit corporate boards and committees, and as the Executive Director of one non-for profit (collectively "the non-profits"). The non-profits are as follows:

Casa Valentina, Inc. (Valentina) is a Florida non-for-profit corporation. Valentina is an affordable housing and comprehensive wrap-around services program for at-risk and former foster care youth transitioning to independent living in Miami, Florida. Valentina

describes its mission as providing at-risk and former foster care youth, safe and affordable housing with intensive case management and a comprehensive life skills curriculum in a supportive environment where residents can focus on achieving their education, employment, and financial goals. Valentina has a full-time administrative staff lead by an Executive Director.

You serve as a voluntary member of Valentina's Board of Directors. You do not engage in grant or charitable solicitation activities on behalf of Valentina.

The Florida A&M University National Alumni Association (FAMU NAA) is a Florida non-for-profit corporation. FAMU NAA describes its mission as serving its alumni and FAMU, actively promoting the interest of FAMU as an institution of higher learning, research, and public service and working to build interest in FAMU among students, former students, graduates, family, and friends of FAMU, corporate partners, and others while providing financial, moral, and political support.

You serve as a voluntary member and chair of a FAMU NAA committee. You do not engage in grant or charitable solicitation activities on behalf of FAMU NAA.

The Haitian American Professionals Coalition, Inc. (HAPC) is a Florida non-for-profit corporation. HAPC describes its mission as developing and implementing effective interventions that are culturally competent, and appropriate to address major health, legal, academic, and socio-economic issues affecting Haitian Americans in the United States and Haitians in Haiti. HAPC also serves as an umbrella organization for other Haitian advocacy groups.

You serve as a voluntary member and chair of a HAPC committee. You do not engage in grant or charitable solicitation activities on behalf of HAPC.

Scholars Today, Leaders of Tomorrow, Inc. (Scholars) is a Florida non-for-profit corporation. Scholars describes its mission as educating, empowering and equipping teenagers and young adults with the skills to excel in academics, financial literacy, professional and career development, and community service.

You are the founder and Executive Director of this entity. You do not draw a salary, but you do receive a stipend for cellular phone usage. You do engage in charitable solicitation activities on behalf of Scholars.

You are a member/principal and President of a for-profit company. The for-profit is as follows:

Arnold Consulting Group, LLC (Arnold) is a Florida for-profit limited liability company. When active, Arnold is engaged in education consulting activities. Arnold is an active Florida company as regards filings with the State of Florida, but it is operationally dormant. You are a manager/principal in Arnold and its President.

You advise that the County Mayor is aware of your work with the aforementioned non-profits and that she has approved of your continuing to volunteer with the entities as long as the service is consistent with the requirements imposed on County officials and employees under the County Ethics Code.

Issues:

Whether your service as a volunteer member of several non-for-profit entities, is considered outside employment.

Whether your service as the Executive Director of Scholars, a non-for-profit entity, presents a conflict of interest under Section 2-11.1 (j) of the County Ethics Code relating to conflicting outside employment.

Whether your status as a manager/principal and the President of Arnold, a Florida actively registered, for-profit limited liability company that is operationally dormant, is considered outside employment implicating Section 2-11.1 (j) of the County Ethics Code relating to conflicting outside employment.

Discussion and Opinion:

Your voluntary board and committee service on the non-for-profits (whether compensated or uncompensated), will not implicate outside employment or conflicting employment provisions of the Ethics Code unless you are involved in aspects relating to the administration of that entity. may constitute outside employment. (*See generally* RQO 17-03) You have not provided any facts suggesting that your service at Valentina, FAMU NNA and HAPC involves administrative responsibilities.<sup>1</sup>

Regarding your service as an unpaid Executive Director of Scholars, a non-profit entity, since this position is one that is customarily compensated, then it would constitute outside employment. INQ 13-08 (It is considered outside employment if one is the Executive Director because it is a position that is traditionally compensated); INQ 17-107 (The Founder of a non-profit that acts as an unpaid Executive Director is engaged in outside employment since the position is traditionally paid). Section 2-11.1(j) of the County Ethics Code prohibits County employees from engaging in outside employment that creates a conflict of interest between their public duties and their personal interests.

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<sup>1</sup> Cf. INQ 2021-70; INQ 2021-89 (If the employee holds a public and prominent executive position in local government, then he or she should consider treating all engagements with non-profits, including those for which the employee only serves as a board or committee member without administrative duties, as if these constituted outside employment)

As regards the non-profits, should any of them decide to directly apply for grants from the County and the receipt of the grants is conditioned on a grantor/grantee contract, then this would be permissible provided that the contract does not interfere with the full and faithful discharge of your duties to the County and that neither you nor the Mayor's Office is involved in the grant application, award, supervision, compliance, or enforcement. (*See* Sections 2-11.1(c)(2) and (d), Miami-Dade County; INQ 2021-25; INQ 2021-70)

Even if the grant application, award, or administration occurred without the involvement of the Mayor's Office, you could not be involved in any manner with this process. Please be advised that the County Ethics Commission has interpreted this prohibition very expansively to include any communications, in any form, intended to influence an individual within the County to take an official action. (*See* INQ 16-48, 16-22, INQ 14-170, INQ 12-13, INQ 11-01, and INQ 10-201)

Because you work for the County Mayor, it is recommended that if any of the non-profits apply for County grants, that you seek ethics guidance regarding those specific transactions.

With respect to fundraising on behalf of non-profits, the County Ethics Code prohibits County employees from soliciting any gifts in exchange for an official action. Miami-Dade Code Sec. 211.1(e)(3). This obviously means that you could not solicit or accept a gift on behalf of the non-profits in exchange for any official action you take as a County employee.

The Ethics Commission's best guidance, because of the nature of your position as the Mayor's Director of Constituent Services, is that should you decide to engage in charitable solicitation activities on behalf of any of the non-profits that you seek further ethics guidance, at that time.

All of the standard prohibitions that apply to County employees engaged in outside employment would apply to your service with Scholars:

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 may not engage in activities that relate in any way to your outside employment during your County work hours, including phone calls, or any other communication and/or use of County resources (including but not limited to phones, copiers, computers, fax machines, County computer programs, computer licenses purchased by the County, 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 a benefit for the non-profits or their clients and service recipients. *See* Section 211.1(h), Miami-Dade County Ethics Code.

You may not exploit your County position to secure special privileges or exemptions for yourself, the non-profits or their clients and service recipients. *See* Section 2-11.1(g), Miami-Dade County Ethics Code.

You may not represent any of the non-profits before any County board or agency. *See* Section 2-11.1(m)(1), Miami-Dade County Ethics Code; RQO 04-173.

As regards your position as a principal/member and President of the for-profit Arnold company, while it is an actively registered entity with the State of Florida, because you have advised that the entity is dormant, and you are not currently engaged in consulting work in your private capacity, then this would not ordinarily constitute outside employment. *See* INQ 12-88.

However, the County's Conflict of Interest and Code of Ethics provides the *minimum standard* of conduct for public officials. It does not directly address "appearance of impropriety" issues that should guide the actions of all public servants. Avoiding an appearance of impropriety is even more important given that you engaged as a senior member of the Mayor's staff.

Thus, in abundance of caution, you should obtain permission to engage in outside employment as regards your engagement with a non-for-profit as the Executive Director and as the President of the for-profit, on an annual basis by filing a Request for Outside Employment and 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. You should access the County's electronic and automized Outside Employment authorization system at this time.

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 and Public Trust.

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.