



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Belkis Garcia
Courtroom Clerk 1, District Court
Miami-Dade County Clerk of Courts

Keith Noble
Court Division Director
Miami-Dade Clerk of Courts

FROM: Radia Turay, Advocate
Commission on Ethics

SUBJECT: INQ 2021-93 [Outside Employment § § 2-11.1(j) and k(2), County Ethics Code]

DATE: June 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 in your proposed outside employment.

Facts:

You are employed as Courtroom Clerk 1 at the North-Dade Justice Center, Miami-Dade Clerk of Courts (COC). Your job responsibilities include processing eviction cases, small claim cases, accepting court registry deposits, and setting emergency motion dockets.

You would like to engage in outside employment as the manager of your company, Total Home Care Restoration (THCR). You advise that THCR is not currently a County vendor, but you are interested in possibly registering as a County vendor in the future. THCR is engaged in restoring properties with water damage. You explained that **your company receives its clients exclusively through public adjusters**. It does not engage in any marketing nor does it solicit business from individual residential clients. Your company does not file any lawsuits. The private adjusters that you work with do not file lawsuits either. If a lawsuit is filed, it is usually done by an insurance company not THCR. Your

job duties will include office management, scheduling and record keeping. You advise that your work for THCR would be performed outside of your County hours.

Issue: Whether any prohibited conflicts of interest exist between your employment as Courtroom Clerk I at the Clerk of Courts and your prospective outside employment with THCR.

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 Courtroom Clerk at the North Dade Justice Center for the Clerk of Courts. This is because there is no overlap between your public duties and your outside employment; **THCR receives its clients exclusively through public adjusters**; THCR does not engage in any marketing nor does it solicit business from individual residential clients; THCR does not file any lawsuits; you will not use the same resources in your outside employment as you do at your County employment; 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 THCR, or THCR 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 THCR, or THCR client. *See* Section 2-11.1(g), Miami-Dade County Ethics Code.
- You may not represent THCR or THCR 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 THCR, it is important to note that you would be prohibited from doing any such activities on behalf of THCR.
- 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.

