



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Martin D. Sonless, Jr.
District 9, Director of Policy and Legislation

FROM: Jose J. Arrojo
Executive Director 

SUBJECT: INQ 2021-25, Outside Employment § § 2-11.1(j) and k(2), County Ethics Code

DATE: February 11, 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 continued outside employment.

Facts:

You are recently employed as the Director of Policy and Legislation for District 9 Commissioner Kionne McGhee.

As Director of Policy and Legislation for a County Commissioner, you have varied responsibilities as determined by the elected official. Nevertheless, the focus of your work is assisting and advising the official on new legislation and his response to legislation proposed by other elected officials, as well as assisting and advising on new policy and responses to policy proposed by other elected officials or administration staff.

Additionally, you serve as a voluntary, unpaid, Director for Beacon for Change, Inc., a Florida not for profit corporation. Beacon for Change (Beacon) is a charitable organization based in Miami-Dade County that describes its mission as supporting impacted and at-need communities within the Bahamas. It additionally reports that its charitable activities include providing food, housing, emergency relief, and school and education support.

In your capacity as a Beacon Director, you have a leadership role in determining Beacon policy and you may also be involved in charitable solicitation activities or grant applications.

You advise that Beacon is not currently a County grant applicant or recipient.

Commissioner McGhee supports your proposed continued outside employment as long as it does not conflict with your County duties and the other employment does not constitute a violation of the County Ethics Code.

Issue:

Whether any prohibited conflicts of interest may exist between your employment as a Policy and Legislation Director for a County Commissioner and your prospective continued outside employment as a voluntary, unpaid, Director for a not for profit.

Discussion 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. Your position as a Director for Beacon is considered outside employment. *See* RQO 17-03

Moreover, County 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 7-1.¹ 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.

In consideration of your inquiry, the Ethics Commission considers several factors, one of which is whether there is similarity in your duties as a Director of Policy and Legislation for a County Commissioner, and your prospective outside service. In this instance, there does not appear to be any notable overlap in the position duties, and there is no indication that a prohibited conflict of interest exists.

We also consider whether in your proposed outside employment you will be interacting with other County employees, or similar client or constituent communities. Again, there does not appear to be a discernable or predictable engagement with County employees or constituent communities that will arise from your proposed continued outside service with Beacon.

¹ For purposes of outside employment for a County Commissioner, the Director is the elected official or his or her designate.

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 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 Beacon, its clients or service recipients. *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, Beacon, or its clients or service recipients. *See* Section 2- 11.1(g), Miami-Dade County Ethics Code.

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

Once you have been granted permission to engage in outside employment by Commissioner McGhee, if Beacon decides to apply for a grant from the County and the receipt of the grant is conditioned on a grantor/grantee contract, this may 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 Commissioner's office is involved in the grant award, its supervision or compliance monitoring. *See* Sections 2-11.1(c)(2) and (d), Miami-Dade County Ethics Code.

You have a continuing duty to obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with Commissioner McGhee 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. You should access the County's electronic and automated 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.

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.