



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Diana Narcisse
County Commission Clerk 2
Miami-Dade Clerk of the Courts

FROM: Nolen Andrew Bunker, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022-08, Section 2-11.1(c), Limitations on Contracting with the County.

DATE: February 3, 2022

CC: All COE Legal Staff; Office of Miami-Dade Commissioner Jean Monestime,
District 2; Victoria Goss, Training Coordinator, Neighbors and Neighbors
Association

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest concerning a County employee applying for a Mom and Pop Small Business Grant funded by Miami-Dade County.

Facts

Ms. Narcisse is employed by the Miami-Dade Clerk of the Courts (“Clerk of Courts”) as a County Commission Clerk 2. Her job responsibilities are primarily assisting special magistrates with tax approval and appeals of property tax assessments. Her Clerk of Courts position duties do not include any oversight or administration of the Mom and Pop Small Business Grant program.

Ms. Narcisse owns and operates a Florida Limited Liability Company named Baked to Lashed, LLC (“BtL”), which provides beauty bar services, such as facials, makeup, and lash services. A records check with the Florida Department of Business and Professional Regulation shows that Ms. Narcisse is a licensed Facial Specialist in the State of Florida. Ms. Narcisse would like to apply for a Mom and Pop Small Business Grant for BtL through Miami-Dade Commissioner Jean Monestime’s District 2 Office.

The Mom and Pop Small Business Grant program is funded by Miami-Dade County. The Neighbors and Neighbors Association, a Florida not-for-profit organization, administers and

makes recommendations regarding the Mom and Pop Grant applications; funds are distributed to qualifying businesses by the thirteen County Commission district offices.

Issue

Whether there is a prohibited conflict of interest that would prevent BtL, Ms. Narcisse's privately owned business, from accepting a Mom and Pop Small Business Grant.

Analysis

This inquiry involves several sections of the Miami-Dade County Code of Ethics and Conflict of Interest Ordinance ("County Ethics Code"), each of which is analyzed in turn below:

A. Outside Employment

Work conducted for BtL by Ms. Narcisse constitutes outside employment, as defined by the County Ethics Code. The County Ethics Code prohibits County employees from accepting outside employment, "which would impair his or her independence of judgment in the performance of his or her public duties." Section 2-11.1(j). Additionally, Miami-Dade County Administrative Order 7-1 provides that, "[u]nder 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." Conflicting employment can occur when a County employee encounters the same or similar persons or entities in both her County and outside employment. County employees may not use County time or resources in the performance of their outside employment. *See* INQ 21-27; INQ 20-21.

Based on the information provided to us at this time, it appears to be unlikely that the type of outside employment that Ms. Narcisse engages in through BtL would impair her independence of judgment in the performance of her County duties as a County Commission Clerk 2 with the Clerk of Courts.

However, County department directors and their subordinate supervisors have the discretion to deny a request for outside employment if they determine that, at any time, the proposed outside employment would be contrary, detrimental, or adverse to the interests of the County or the employee's department. *See* AO 7-1; RQO 16-02; RQO 00-10; INQ 13-28. **Accordingly, this memorandum does not grant permission to engage in outside employment. Ms. Narcisse must obtain permission to engage in outside employment yearly from her department director.¹ Given that she is a full-time employee, she must also file an outside employment financial disclosure form – Outside Employment Statement – on an annual basis.**

¹ A records check reflects that Ms. Narcisse has submitted a currently pending request for approval for her outside employment with BtL for this calendar year.

B. Mom and Pop Small Business Grant

Upon obtaining permission to engage in outside employment with BtL, then BtL **may accept the Mom and Pop Small Business Grant**, so long as the Clerk of Court is not involved in any way in processing or administering the grant. This includes the condition that Ms. Narcisse may not participate in determining or awarding the grants. Additionally, none of her job responsibilities or job descriptions may require her to be involved in the grants in any way, including enforcement, oversight, administration, amendment, extension, termination, or forbearance. *See* County Ethics Code §§ 2-11.1(c), (n).

C. Lobbying

Ms. Narcisse may not lobby the County. In this case, it means that Ms. Narcisse may not contact anyone within the County in an attempt to influence a decision about BtL's application for a Mom and Pop Small Business Grant. *See* County Ethics Code § 2-11.1(m)(1).

D. Exploitation of Official Position

The County Ethics Code prohibits County employees from exploitation of their official position. *See* County Ethics Code § 2-11.1(g). This means that Ms. Narcisse may not use her County position to secure any special privilege or exemption with respect to BtL's application to, and ultimate participation in, the Mom and Pop Small Business Grant program, or to any other grant program to which BtL or Ms. Narcisse is applying.

Opinion

Based on the facts presented here and discussed above, BtL's participation in the Mom and Pop Small Business Grant program **does not appear to give rise to any prohibited conflict of interest.**

This opinion is based on the facts presented. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney.

This opinion is limited to the facts as presented to the Commission on Ethics and to an interpretation of the County Ethics Code only. For an opinion regarding Florida ethics law, please

contact the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

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 Commission on Ethics 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.