


MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Honorable Jose “Pepe” Diaz
Chairperson and District 12 Commissioner
Miami-Dade Board of County Commissioners

FROM: Jose J. Arrojo
Executive Director 

SUBJECT: INQ 2022-128, Section 2-11.1(e), County Ethics Code
Charitable Gift Donation for County Use

DATE: August 12, 2022

CC: Isidoro Lopez, Esq.
Chairman’s Chief of Staff

Thank you for 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 charitable gift donations.

Facts:

Formula 1 is a class of international car racing. Formula 1 uses a points system to determine annual champions. In May 2022, the Miami Grand Prix, a Formula 1 racing event, took place at the Miami International Autodrome located at Hard Rock Stadium in Miami Gardens, Florida. The final signature race took place on the third day of the event.

Formula 1 powerboat racing is a class of international boat racing which also uses a points system to determine champions each annual racing season.

Cigarette Racing Team (Cigarette) is a manufacturer of offshore powerboats and was locally founded approximately 50 years ago. Cigarette is locally owned, in part, and participates in powerboat racing.¹

¹ Cigarette is reportedly owned by local attorney and businessman, John Ruiz, and Ophir Stenberg, the Founder and Chief Executive Officer of Lionheart Capital, a Miami-based investment firm.

The planning of the Miami Grand Prix event and concurrent contacts between event organizers, promoters, and elected County leaders, resulted in contacts between representatives of Cigarette boats and the Chairperson of the County Commission, Jose ‘Pepe’ Diaz.

Arising from those contacts, representatives of Cigarette boats have offered to donate a Cigarette manufactured boat, at no cost, with an accompanying maintenance program, to Miami-Dade County. The vessel would be used by one of the County’s first responder uniformed services departments, either the police or fire rescue departments, in discharge of official duties.

Cigarette is not a County contractor, vendor, or bidder, and its owners are not registered County lobbyists or principals.

Issues:

Whether the County Commission Chairperson, on behalf of Miami-Dade County, may accept a Cigarette manufactured boat as a donation for use by one of the County’s first responder uniformed services departments, in discharge of official duties.

Discussion and Opinion:

The County Ethics Code at Section 2-11.1(e)(3) generally prohibits the solicitation or demand of a gifts by elected officials and their staff. Also, gifts may not be solicited, offered, or accepted as part of a *quid pro quo* scenario. ²

An exception to the general gift prohibition is contained in subsection 2-11.1(e)(2)(f) of the County Ethics Code: “Gifts solicited by Commissioners on behalf of the County in the performance of their official duties for use solely by the County in conducting its official business.”

That provision allows Commissioners and the Mayor to solicit and accept gifts in the performance of their official duties for use solely by the County in conducting its official business. ³

Consequently, the Ethics Commission has recognized that the County may accept a gift from a private company for its use in the performance of its official functions. Of course, this allowance assumes that there is no personal benefit to the County official that is the point of contact for the receipt of the donation and that the donation is not being offered in connection with any possible official action that may affect the donor. ⁴

² Section 2-11.1(e)(3), Miami-Dade Code (“A person described in subsection (b)(1) [mayors and commissioners] through (6) shall neither solicit nor demand any gift” and “No person or entity may offer, and no public official may accept a gift because of legal duty or public action to be taken or which could be taken.”)

³ See also Section 112.3148, Florida Statutes (Allowing acceptance of gifts on behalf of a governmental entity, even if such gifts are made by lobbyists or vendors.)

⁴ INQ 17-231 (County may accept a gift from a private company consisting of 5,000 portable housing units in relief of persons displaced by hurricane.); INQ 18-31 (County Medical

Opinion:

Applying the plain language of the Ethics Code and the reasoning of the previous opinions issued by the Ethics Commission to the facts here, the Chairperson of the County Commission or staff under his direction, may accept a donated boat to be used by one of the County's first responder uniformed services departments, either the police or fire rescue departments, in discharge of official duties.

We hope this opinion is of assistance and we remain available to discuss any matters addressed herein. Also, this opinion is limited to the facts as you presented them to the Commission on Ethics, is limited to an interpretation of the County Ethics Code 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

Examiner's office may accept donated catering services valued in excess of \$2,000 from a private entity for memorial service honoring the former Medical Examiner.)