



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Sakinah Nelson
Secretary
Internal Service Department

Keith Westin
Manager, Risk Management and Safety
Internal Services Department

FROM: Loressa Felix, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022-16 Conflicting /Outside employment, Sections 2-11.1(k)(2) and (j),
County Ethics Code

DATE: February 16, 2022

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 a Secretary for the Internal Services Department (ISD). You would like to engage in outside employment as a real estate agent for Keller Williams Realty.

As a Secretary, you provide clerical support to the ISD, Office of Risk Management and Safety. Your duties include updating and maintaining contact lists, updating and maintaining records for the Safe Driver Awards Program, updating manuals and logs, and keeping track of meeting minutes. Your office is tasked as a regulatory arm to ensure safety compliance throughout the County. Your office deals with safety officers and has authority and oversight over various safety programs.

You would like to engage in outside employment as a real estate agent for Keller Williams Realty (KWR). You advise that KWR is not a County vendor nor are you seeking to become a County vendor. You will work for KWR as an independent contractor, and your job duties will include assisting clients with the purchase, sale, rental, or assessing the value of real property. You advise that you will not be required to come into contact with the same people, clients, or entities in your position with the County and with KWR. You will not utilize the same or similar resources for

your outside employment. Your outside employment would not require interactions with County employees, departments, or County boards. Lastly, you advise that your work for KWR would be performed outside of your County hours.

Issue: Whether any prohibited conflicts of interest may exist between your County employment and your outside employment as a real estate agent.

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. The Ethics Commission has previously opined that a Miami-Dade Corrections and Rehabilitation Department Lieutenant's work as real estate agent for Keyes Realty, a County vendor, would not impair his independence of judgment in the performance of his County duties, as long as the employee continued to have no involvement in the selection, oversight, or administration of the County contract with The Keyes Company and no responsibilities and/or duties that involve the County contract with The Keyes Company. *See* INQ 18-05. Additionally, the Manager of the Miami Beach Branch Court at the County Clerk of Courts (COC) was also found not have a conflict of interest regarding his outside employment as a real estate associate for a non-vendor realty group because his outside employment would not impair his independence of judgment in the performance of his County duties as he will not transact business with the County or any County vendor and he will not use any County time or resources in his outside employment. *See* INQ 21-60.

Based on the information provided, 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 Secretary for ISD. This is because there is no overlap between your public duties and your outside employment; you will not assist the same clients; you will not use

the same resources; your outside employment does not require you to interact with other County employees; and the work would be performed outside your County hours.

Nevertheless, the Ethics Commission strongly recommends that the following limitations be imposed on your permission to engage in the aforementioned outside employment in order 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 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, for the benefit of yourself, your clients, KWR, or KWR 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, your clients, KWR, or KWR clients. *See* Section 2-11.1(g), Miami-Dade County Ethics Code.
- You may not represent your clients, KWR, or KWR 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 as a real estate agent, it is important to note that you would be prohibited from doing any such activities on behalf of your clients, KWR, or KWR clients.
- 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.

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.