



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Shelly-Ann Davidson
Human Resources Manager
Miami-Dade Water and Sewer Department

FROM: Nolen Andrew Bunker, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022-17, Section 2-11.1(e), Gifts

DATE: February 17, 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 concerning potential gifts to WASD employees and their children.

Facts

You are a Human Resources Manager for the Miami-Dade Water and Sewer Department (“WASD”). You have advised that WASD received in the mail a package that contained a flyer for “MonsterTruckz.com” asking that the enclosed “tickets” be distributed to employees. The enclosed “tickets” were labeled, among other things, “Free Ticket” and “\$15.00 Value Admit One Child 3-13 With Paid Adult.” The “tickets” are for two successive weekends of monster truck shows, part of the “Monster Truckz Extreme Tour,” to take place in Miami-Dade County.

Monster Truckz Extreme is a fictitious name registered and owned by Garden Motorsports Inc. (“Garden”), a for-profit Florida corporation. Based on a records search, neither Monster Truckz Extreme nor Garden appear to be a County vendor.

To your knowledge, these “tickets” were not solicited from Garden and are unrelated to any official action taken or legal duty performed by WASD.

Issue

Whether the “tickets” may be made available to and used by WASD employees pursuant to Section 2-11.1(e) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (Gifts) (“County Ethics Code”).

Analysis

Section 2-11.1(e) of the County Ethics Code limits the solicitation and receipt of gifts by County employees. *See* County Ethics Code § 2-11.1(e)(3). The term “gift” is defined as, “the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration.” County Ethics Code § 2-11.1(e)(1).

Generally, County employees may participate in discount programs targeted to government employees. *See* RQO 99-28 (employees of the Miami-Dade Aviation Department may accept discounts on tickets offered by an airline to all persons who work at the Miami-Dade Airport, including government personnel, as well as similar discount programs targeted to government personnel). However, County employees are prohibited from accepting the discount if it is offered in exchange for a specific official act or in performance of a specific official duty. *See id.*

Additionally, a discount is not considered a “gift” as defined by the County Ethics Code when the discount is made available to the general public. INQ 13-55 (a discount for Florida Panthers’ tickets made available to the general public is not a gift). This is because, if the same price is available to everyone, then it indicates that “adequate and lawful consideration” has been paid. *Id.* It is reasoned that a discount made available to the general public is indicative of a sales or marketing strategy rather than an intent to bestow a gift. *Id.*; *see also* INQ 17-25.

Here, the “tickets” offered by Garden appear to be part of a general sales or marketing strategy and are not uniquely available to WASD employees. **This is evident by the availability of the same offer, a free child’s ticket with the purchase of one adult ticket, on the company’s website.** *See* www.monstertruckz.com (last visited February 16, 2022). Accordingly, the “tickets” received by WASD are not a “gift” as defined by the County Ethics Code and may be freely made available to and used by WASD employees. Furthermore, because the “tickets” are not gifts, it is not required that their use be reported. *Cf.* County Ethics Code § 2-11.1(e)(4).

Opinion

Based on the facts presented here and discussed above, the “tickets” received by WASD from Garden for the Monster Truckz Extreme Tour are not gifts and may be made available to and used by WASD employees.

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.