



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Cynthia Linder  
Pretrial Services Officer 2  
Miami-Dade Corrections and Rehabilitation

Sherea Blackman  
Administrative Officer 3  
Miami-Dade Corrections and Rehabilitation

**FROM:** Loressa Felix, Staff Attorney  
Commission on Ethics

**SUBJECT:** INQ 2022-63 Conflicting /Outside employment, Sections 2-11.1(k)(2) and (j),  
County Ethics Code

**DATE:** April 11, 2022

**CC:** All COE Legal Staff

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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 Pretrial Services Officer 2 for the Miami-Dade Corrections and Rehabilitation Department (MDCR). You would like to engage in outside employment for your privately-owned company, Clean Living Janitorial Team, LLC.

As a Pretrial Services Officer 2, you are a supervisor for the Pretrial Services Bureau. The Pretrial Services program serves the criminal justice system and community assisting in preserving community safety. The Program provides the Court with information that facilitates sound judicial decisions, enforces court orders, and provides supervision and treatment options to defendants.

You are the owner of a company registered with the State of Florida as Clean Living Janitorial Team, LLC (Clean Living). Clean Living offers commercial and residential janitorial services including post-construction cleanup, full-scale property disinfection, scheduled home cleaning services, trash removal, and pressure cleaning. As the owner, you run the business and are responsible in obtaining contracts. You have other employees working for the business.

You advise that Clean Living is not a County vendor nor is it seeking to be a County vendor. Your work with Clean Living would occur outside of your County hours and would not require the use of any equipment or resources which you use in your County employment. You will not work with the same clients or interact with any County employees in your outside employment.

Issue: Whether any prohibited conflicts of interest may exist between your County employment and your prospective outside employment for your privately-owned company, Clean Living.

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.

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 Water and Sewer Department employee is not prohibited from engaging in outside employment in her cleaning business, but she may not contract with her own department. *See* INQ 11-34. Additionally, a Miami-Dade Corrections and Rehabilitation Department employee is also not prohibited from engaging in outside employment as an owner of a janitorial cleaning services as long as she does not contract with the department that employs her. *See* INQ 21-07.

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 a Pretrial Services Officer 2 for MDCR. 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, Clean Living, or Clean Living 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, Clean Living, or Clean Living clients. *See* Section 2-11.1(g), Miami-Dade County Ethics Code.
- You may not represent your clients, Clean Living, or Clean Living 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 owner for your privately-owned company, it is important to note that you would be prohibited from doing any such activities on behalf of your clients, Clean Living, or Clean Living 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.