



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

Overtown Transit Village North
701 Northwest 1st Court · 8th Floor · Miami, Florida 33136
Phone: (305) 579-2594 · Facsimile: (305) 579-0273
Website: ethics.miamidade.gov

MEMORANDUM

TO: Luis Robainas
Cashier 1
Miami Dade Water and Sewer Department

Cristobal Andrades
Accountant 3
Miami Dade Water and Sewer Department

FROM: Etta Akoni, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022 – 86 Outside Employment §2-11.1(k)(2) and (j)

DATE: May 19, 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 Luis Robainas' continued outside employment at The Home Depot.

Facts:

Luis Robainas is employed as a Cashier 1 with Miami Dade Water and Sewer Department ("WASD"). In this position, Mr. Robainas processes customer payments for WASD- issued water bills paid by customers via checks, cash, and direct deposit. Mr. Robainas would like to continue his outside employment with The Home Depot, which began in July 2020. At The Home Depot, Mr. Robainas is employed as a Part-Time Head Cashier. In this role, he is responsible for overseeing cashiers and customer service associates, organizing break and lunch schedules for employee under your supervision, and enforcing company return/sale policies.

Mr. Robainas also indicates that his work does not require the use of any equipment or resources which he uses in his County employment, nor would he work with the same clients. Lastly, his work with The Home Depot will be conducted outside his County hours.

Issue:

Whether any prohibited conflict of interest may exist, pursuant to the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (“County Ethics Code”), between Luis Robainas’ County employment with WASD and his outside employment at The Home Depot.

Analysis:

The Miami-Dade County Conflict of Interest and Code of Ethics (“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); *see also* section 2-11.1(k). 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.”

County employees are required to obtain approval from their department director prior to engaging in outside employment. *See* AO 7-1. Departmental directors and their subordinate supervisors may request an opinion from the Miami-Dade Commission on Ethics and Public Trust regarding any potential conflict of interest concerning the proposed outside employment. *See* INQ 21-111; INQ 19-101. 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* RQO 16-02; RQO 00-10; INQ 13-28.

Based on the information provided during this review, it appears to be unlikely that the type of outside employment that Luis Robainas is seeking to continue in would impair his independence of judgment in the performance of his County duties as a WASD Cashier 1. This is because there is no overlap between his public duties and his outside employment; his outside employment will be performed outside of his County hours; he will not come into contact with the same persons or entities involved in his County work; he will not use the same resources in his outside employment as used in his County work; and, he does not have access to non-public information as part of his County employment that is, or could be, relevant to his outside employment. *See* RQO 17-01; RQO 16-02.

Opinion:

Based on the facts presented here and discussed above, Luis Robainas would not have a conflict of interest in his proposed outside employment as a Part-Time Head Cashier at the Home Depot.

However, the Commission on Ethics strongly recommends that the following limitations be imposed on Luis Robainas’ permission to engage in his proposed outside employment:

- Luis Robainas may not exploit his County position to secure special privileges or exemptions for himself and/or The Home Depot. *See* Section 2-11.1 (g), Miami-Dade County Ethics Code; INQ 19-123; INQ 20-43. **Specifically, he may not use sick leave to engage in his outside employment.** *See* INQ 18-222; INQ 09-194.
- Luis Robainas shall not engage in activities that relate in any way to his 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 his outside employment, even after work). *See* Sections 2-11.1 (g), Miami-Dade County Ethics Code; AO 5-5, AO 7-1; INQ 05-29, and INQ 15-240.

- Luis Robainas is 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 or a benefit for The Home Depot. *See* Section 2- 11.1(h), Miami-Dade County Ethics Code.
- Luis Robainas shall obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with his 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, Luis Robainas, 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, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

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 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.