

Via First Class Mail  
and  
email at [KPoliakoff@becker-poliakoff.com](mailto:KPoliakoff@becker-poliakoff.com)

July 20, 2010

**ETHICS COMMISSIONERS**

Kerry E. Rosenthal, CHAIRPERSON  
Dawn E. Addy, VICE CHAIRPERSON  
Judge Seymour Gelber

**ROBERT A. MEYERS**  
EXECUTIVE DIRECTOR

**MICHAEL P. MURAWSKI**  
ADVOCATE

**ARDYTH WALKER**  
STAFF GENERAL COUNSEL

Keith M. Poliakoff, Esq.  
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P.O. Box 9057  
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Re: RQO 10-19, for Robert C. Solera  
Miami-Dade County Ethics Code at Section 2-11.1 (q)

Dear Mr. Poliakoff:

In public session on July 20, 2010, the Ethics Commission responded to your query on whether, under the County Code, the "two-year rule"<sup>1</sup> prevents Robert C. Solera from providing testimony at a publicly noticed quasi-judicial zoning appeal hearing in Sunny Isles Beach within a year of his departure from city employment.

The Ethics Commission opined that former local government employees are not lobbying when they give testimony in publicly noticed quasi-judicial proceedings. Consequently, they do not violate the County's prohibition on appearing before their respective governments for two years following their separation from government employment.

In your email of June 23, 2010, you stated that you wished to call Robert Solera as a witness to give testimony at a quasi-judicial zoning appeal hearing involving Temple B'Nai Zion in Sunny Isles Beach. Mr. Solera would not be compensated for his testimony and is not in any way associated with Temple B'Nai Zion.

Until his separation from city government approximately one year ago, Mr. Solera served as Director of the Community Development Department, which is, in effect, the Planning and Zoning Department of the City of Sunny Isles Beach.

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<sup>1</sup> The two-year rule, at Sec. 2-11.1 (q) of the County Ethics Code, prohibits former local government employees from lobbying their respective governments for two years following their departure from government employment.

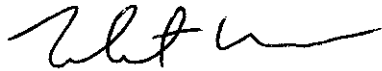
The County Code at Sec. 2-11.1 (q) states that city employees may not lobby their respective municipalities for two years following city employment. The intent of the law is to level the playing field and deter former government officials and employees from exercising undue influence on behalf of themselves or others as a result of their recent ties to government.

Because the County Lobbying Ordinance at Sec. 2-11.1 (s)(1)(b) specifically excludes from the definition of "lobbyist" two related circumstances involving ex parte communications and expert witnesses, the Ethics Commission was persuaded that the prohibition against lobbying under the "two-year rule" did not include testimony proffered at publicly noticed quasi-judicial proceedings.<sup>2</sup>

Although the County Ethics Commission has jurisdiction to interpret ethics codes in all of the municipalities within the County, this opinion construes the Miami-Dade County Conflict of Interest & Code of Ethics Ordinance only. Inquiries regarding possible conflicts under State law should be addressed to State of Florida Commission on Ethics.

Please feel free to contact or me or Staff Attorney Victoria Frigo if we can be of further assistance in this matter.

Sincerely,



ROBERT MEYERS  
Executive Director

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<sup>2</sup> Under Sec. 2-11.1 (s)(1)(b) of the County Code, the term "lobbyist" does not include attorneys or other representatives retained or employed solely for the purpose of representing individuals, corporations or other entities during publicly noticed quasi-judicial proceedings where the law prohibits ex-parte communications. Additionally, the term does not include expert witnesses who provide only scientific, technical or other specialized information or testimony in public meetings.