

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, April 12, 2018 10:57 AM
To: Sanchez, Rodzandra (COE)
Subject: Goerge Navarrete, Former employee, (Two Year Rule (q), Confidential Information (h)), INQ 18-88
Attachments: INQ 17-181 Navarrete.pdf

INQ 18-88 Navarrete

From: Perez, Martha D. (COE)
Sent: Thursday, April 12, 2018 10:15 AM
To: George Navarrete <navarrg55@gmail.com>
Cc: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>; Murawski, Michael P. (COE) <Michael.Murawski@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Subject: Goerge Navarrete, Former employee, Two Year Rule (q), Confidential Information (h), INQ 18-88

Dear Mr. Navarrete,

You inquire whether the “Two-Year Rule” prohibits you from testifying in a federal criminal proceeding.

Background

You retired from the County on July 31, 2017. As per the information you provided to this office in INQ 17-181 attached herein, you are the President of G Navarrete Consulting, Inc. (GNC). In that role, you provide general administrative, project and construction management services to assist in the implementation of capital construction projects for the County and municipalities (but not likely for the Parks and Recreation Department where you worked). The specific activities you described as part of your services did not include testifying in judicial proceedings as an expert (with specialized knowledge) in the bid process and County forms required for compliance.

You state that in this instance, you have been retained by a private law firm to provide consultation and, if necessary, testimony in a federal criminal prosecution involving a *construction company's* successful bid for a County Section 8 Public Housing and Community Development (PHCD) project. You have indicated that during your County employment, you *did not* have any involvement with the construction company and/or the PHCD project at issue. You have also indicated that your testimony in the federal prosecution/criminal proceedings will be directed to the construction company's solicitations and/or contracts with the County's PHCD.

Analysis

I am incorporating INQ 17-181 for purposes of an overview of the limitations imposed by Section 2-11.1(q)- the Two Year Rule.

The Two Year Rule does not prohibit a former County employee from testifying in a judicial proceeding. See RQO 10-09 (former local government employees are not lobbying when they give testimony in a publicly- noticed quasi-judicial proceeding); See also INQ 16-146 (if appearances by attorneys during publicly-noticed quasi-judicial proceedings are not considered lobbying, then it would be illogical to consider appearances in judicial proceedings differently; also cites to INQ 08-81). Consequently, you may provide testimony in the federal criminal prosecution involving the construction company and PHCD project mentioned herein.

However, as previously mentioned in INQ 17-181, Section 2-11.1(h) of the County Ethics Code, *Confidential Information*, prohibits a (former) County employee from disclosing confidential information he has acquired through his official position with the County or, from using such confidential information, directly or indirectly, for personal gain or benefit. See INQ 17-114, INQ 16-109. This County provision is analogous to Florida law, which states, "A current or former public... employee...may not disclose or use information not available to members of the general public and gained by reason of his or her official position...except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity." See Fla. Stat. 112.313(8)

Although this is not the case in your inquiry, be mindful that information you share in your *private consulting services*, personally or through GNC, must conform to the limitations set forth in the County Ethics Code at Section 2-11.1(h) such that, in providing consultation services to private clients, you may not disclose internal confidential information which was available to you *solely* as a result of your County employment. See RQO 05-19 (while a County employee is permitted to discuss general public information, he may not disclose internal information available to him solely as a result of his County employment).

If you encounter a particular situation over the next two years that is not covered in this legal analysis or in INQ 17-181, we encourage you to contact our office as you have done in the past, to discuss the matter further.

This opinion is based on the facts as you have stated. If any of these facts change, please contact us.

Sincerely,

Martha D. Perez

Staff Attorney

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

19 West Flagler St. Suite 820

Miami, FL 33130

(305)350-0656

PEREZMD@miamidade.gov

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From: George Navarrete [<mailto:navarrg55@gmail.com>]

Sent: Wednesday, April 11, 2018 10:48 AM

To: Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>

Subject: Re: Request for Ethics Opinion Re: "Two-Year Rule"

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Thank you. Will try to get back to you today.

On Wed, Apr 11, 2018 at 9:51 AM, Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov> wrote:

Good morning Mr. Navarrete,

In order to assist you with this inquiry, please respond to the following:

- 1) While you were employed with the County, did you have any involvement with the construction company and/or the PHCD project you reference in your inquiry? If so, please explain.
- 2) Have you been retained by the law firm as a consultant on the County's general solicitation process or to provide specific information pertaining to the PHCD project solicitation referenced in your inquiry?

Thank you for your anticipated responses.

Sincerely,

Martha D. Perez

Staff Attorney

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

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From: George Navarrete [mailto:navarrg55@gmail.com]

Sent: Tuesday, April 10, 2018 7:09 PM

To: Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>; Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>

Cc: NEIL TAYLOR <ngt@bellsouth.net>

Subject: Request for Ethics Opinion Re: "Two-Year Rule"

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My name is George Navarrete and, after 35 years of service to Miami-Dade County, I retired on July 31, 2017. My last position with the County was as the Director of Parks, Recreation, and Open Spaces (PROS) Department.

I have been retained by the Law Offices of Neil G. Taylor, P.A. to provide consultation and, if necessary, testimony in a federal criminal prosecution brought by the United States Attorney's Office for the Southern District of Florida, Miami Division. The predicate for the case was a construction company's winning bid for a project with Miami-Dade County's Section 8 Public Housing and Community Development Department (PHCD).

Funding for the project was provided by the Federal Housing and Urban Development Agency, whose Special Agents conducted the investigation and are the Case Agents, however, an OIG Agent from the County is assisting them and it is possible there might be testimony from some County employees.

My expertise has been sought to explain the bid process and the forms required for project compliance. It is conceivable that my testimony may run contrary to opinions expressed by County employees and/or prosecution theories advanced by the United States Government.

Accordingly, I seek an opinion as to whether the “Two-Year Rule (§2-11 of the Miami-Dade County Code) prohibits me from testifying.

Respectfully,

George Navarrete