
From: Diaz-Greco, Gilma M. (COE)
Sent: Tuesday, September 08, 2015 10:31 AM
To: Sanchez, Rodzandra (COE)
Subject: (referencing INQ 14-266 and INQ 14-269) Keisha McGuire, Associate, Hughes Hubbard & Reed LLP INQ 15-198
Attachments: inq_14-266_balsera.pdf; INQ 14-269 Balsera.pdf

INQ 15-198 McGuire

From: Centorino, Joseph (COE)
Sent: Thursday, September 03, 2015 12:49 PM
To: Diaz-Greco, Gilma M. (COE); Perez, Martha D. (COE)
Subject: INQ 15-198 (referencing INQ 14-266 and INQ 14-269) Keisha McGuire, Associate, Hughes Hubbard & Reed LLP

From: Ethics (COE)
Sent: Thursday, September 03, 2015 12:48 PM
To: 'keisha.mcguire@hugheshubbard.com' <keisha.mcguire@hugheshubbard.com>
Subject: INQ 15-198 (referencing INQ 14-266 and INQ 14-269) Keisha McGuire, Associate, Hughes Hubbard & Reed LLP

Ms. McGuire:

I understand that you are requesting a formal ethics opinion from the Miami-Dade Commission on Ethics and Public Trust regarding issues previously opined on by Commission staff in INQ 14-266 and 14-269. In those matters we provided Mr. Fred Balsera of Balsera Communications with staff opinions regarding the involvement of Carlos J. Gimenez, its current Vice President and General Counsel, in prospective lobbying issues before the City of Miami and the Metropolitan Planning Organization being conducted on behalf of Alstom Transportation, Inc., which had engaged Mr. Balsera's firm as its lobbyist in these matters.

Please be advised that the jurisdiction of the Commission regarding the issuance of advisory opinions is limited by Section 2-1074(y) of the Miami-Dade County Code and Section 2.3 of the Rules of Procedure of the Commission. Both sections limit the issuance of advisory opinions to a person who will be affected by the interpretation. Section 2.3 further limits the Commission to opining as to prospective conduct. It is my understanding that Balsera Communications and Carlos J. Gimenez no longer have any involvement in these matters on behalf of Alstom Transportation. Accordingly, Alstom is not a person or entity that would be affected by such interpretation. Additionally, this is not a prospective matter but a retrospective matter, inasmuch as whatever involvement Mr. Gimenez or Balsera Communications have had has occurred in the past and there is no expectation that such involvement will occur in the future. Therefore, this agency is not in a position to render the requested opinion.

Please be advised that the INQ's referenced above, while provided as informal opinions, were submitted in summary form to the Commission on Ethics at a regular meeting of the Commission. While the Commission did not issue its own formal opinion in these matters, it has not rejected or altered the opinions in question, which we consider to be valid interpretations of our ordinance.

Sincerely,

Joseph M. Centorino
Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust

From: McGuire, Keisha [<mailto:keisha.mcguire@hugheshubbard.com>]
Sent: Tuesday, September 01, 2015 6:35 PM
To: Ethics (COE) <ethics@miamidade.gov>
Cc: Swerdloff, Nicolas <nicolas.swerdloff@hugheshubbard.com>; Huneke, Michael H. <michael.huneke@hugheshubbard.com>; Patel, Apoorva <apoorva.patel@hugheshubbard.com>
Subject: Request for Formal Ethics Opinion

To whom it may concern,

We request, on behalf of Alstom Transportation, Inc., a formal ethics opinion from the Miami-Dade County Commission on Ethics and Public Trust (the "Commission"), as a follow up to Inquiry Nos. 14-266 and 14-269, dated November 4 and 6, 2014, respectively (attached). Our request is based on the additional facts set forth below.

Alstom Transportation engaged Balsera Communications, a Miami-based public relations firm, to provide lobbying and advisory services in connection with Alstom Transportation's development of an unsolicited proposal to the City of Miami for a potential streetcar project (the "Miami Streetcar Project").

In Inquiry No. 14-266, Freddy Balsera, the chief executive officer of Balsera Communications, inquired whether Balsera Communications' employee Carlos J. Gimenez, who is the son of Miami-Dade County Mayor Carlos A. Gimenez ("Mayor Gimenez"), would be able to represent a client of Balsera Communications before the City of Miami under the ethics rules. The client referenced in Mr. Balsera's email is Alstom Transportation. In response, Mr. Joseph Centorino advised that Mr. Gimenez would not be prohibited from such lobbying activities, provided that these activities were limited to the City of Miami and did not involve interacting with or influencing any decision-making process of Miami-Dade County, and assuming that Mayor Gimenez would not play any decision-making role in the matter.

In Inquiry No. 14-269, Mr. Balsera asked whether the ethics rules allowed Mr. Balsera, Mr. Gimenez, and Ric Katz, another senior employee of Balsera Communications, to be involved in Balsera Communications' public affairs and public engagement activities on behalf of a client, which was Alstom Transportation. The activities described in Mr. Balsera's email concerned interactions with the members of the Miami-Dade County Metropolitan Planning Organization ("MPO"). Mr. Centorino advised that Mr. Gimenez would not be prohibited from acting as a lobbyist before the MPO on the Miami Streetcar Project, provided that (1) Mr. Gimenez did not use his familial connection to Mayor Gimenez to advance the goals of Alstom Transportation and (2) Mayor Gimenez was not asked by Balsera Communications or Alstom Transportation to exert any influence in his official capacity as Mayor over the State of Florida's, the MPO's, or the City of Miami's decision-making processes concerning the Miami Streetcar Project.

Based on the additional facts below, under what circumstances would Balsera Communications' retention of Messrs. Carlos J. Gimenez and Ric Katz not create a conflict of interest?

After Alstom Transportation's retention of Balsera Communications, Balsera Communications hired Carlos J. Gimenez as its Vice President and General Counsel. Mr. Gimenez's duties at Balsera Communications have included activities regarding government affairs, development, and land use practices.

Following Alstom Transportation's retention of Balsera Communications, Balsera Communications also employed Ric Katz as its Executive Vice President. Mr. Katz's duties at Balsera Communications have included activities regarding issue advocacy, public infrastructure, crisis communications, and public involvement practices. Mr. Katz has a longstanding business relationship with the Florida Department of Transportation. Specifically, Mr. Katz previously served as the agency's liaison officer to the MPO and has performed public affairs services for various Florida Department of Transportation programs or projects.

While the Miami Streetcar Project, as envisioned, would be supervised by the City of Miami government alone because it would not cross any city lines, Miami-Dade County remains relevant to the potential funding and viability of the Miami Streetcar Project. Specifically, Balsera Communications has identified funding directly from Miami-Dade County as a potential source of funding for the Miami Streetcar Project, through a 2007 inter-local agreement between Miami-Dade County, the City of Miami, and two Miami Community Redevelopment Agencies. Balsera Communications' lobbying and advisory work on the Miami Streetcar Project, on behalf of Alstom Transportation, has included multiple interactions with Miami-Dade County officials, including Mayor Gimenez and his staff.

The Florida Department of Transportation's New Starts Transit Program was also considered a potential source of funding for the Miami Streetcar Project. Part of the process for obtaining this funding would require the MPO to demonstrate local commitment to the Miami Streetcar Project by committing funding by Miami-Dade County.

We respectfully request that the Commission's formal ethics opinion be issued as promptly as possible. Thank you.

Best regards,
Keisha McGuire

Keisha McGuire | Associate

Hughes Hubbard & Reed LLP

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