
INQ 16-146 Pizzi

From: Centorino, Joseph (COE)

Sent: Friday, June 03, 2016 1:12 PM

To: 'mpizzi@pizzilaw.com' <mpizzi@pizzilaw.com>

Cc: Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Perez, Martha D. (COE) <perezmd@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>; Sanchez, Gerald (CAO) <gks@miamidade.gov>

Subject: INQ 16-146 Michael Pizzi, former Assistant City Attorney, City of Opa-locka (Two-year rule, Section 2-11.1(q))

Mayor Pizzi:

You have inquired regarding whether you would be prohibited, under the two-year rule, Section 2-11.1(q) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, from representing City of Opa-locka employees in the future in Whistleblower Actions and/or lawsuits under Section 1983 of the United States Code. You have asked this question in light of your prior employment with the firm of Vincent Brown, the current City Attorney for the City of Opa-locka, which terminated less than two years ago. While associated with his firm, you handed a number of matters for the City. You have no intention of handling any matters relating to issues with which you were involved while doing legal work for Opa-locka, and have indicated that none of the work you performed there relates in any way to any issues that may be raised in your contemplated representation of City of Opa-locka employees in the future. You have also indicated that none of the issues generated in this request for opinion relate in any way to your public position as Mayor of the Town of Miami Lakes.

Although you were not a City Employee while doing work in Opa-locka for the Vincent Brown law firm, you would be considered covered by the County Ethics Code under Sections 2-11.1(a) and 2-11.1(b)(5), because your role in Opa-locka corresponds to the role of an Assistant City Attorney. This means that you would also be covered by the two-year rule in Section 2-11.1(q), which would prohibit you for a period of two years following your separation from the Brown law firm from lobbying any City officer, departmental personnel or employee in connection with any judicial or other proceeding, application, RFP, RFQ, bid, request for ruling or other determination, contract, claim controversy, charge, accusation, arrest or other particular subject matter" in which the City of Opa-locka or one of its agencies or instrumentalities is a party or has any interest whatever, whether direct or indirect.

While your contemplated involvement in law suits against the City would involve "judicial" proceedings, it does not appear that they would necessarily involve "lobbying" in such a way as to invoke the prohibitions of Section 2-11.1(q). Subsection 2-11.1(s)(1)(b) of the ordinance specifically exempts appearances by attorneys during publicly-noticed quasi-judicial proceedings from the definition of the term "Lobbyist." This provision has been interpreted to also exempt engaging in settlement discussions with attorneys for the government entity (See RQO 11-26 and RQO 13-04). If appearances by attorneys are not considered lobbying in the context of quasi-judicial hearings, then it would be illogical to consider appearances in judicial proceedings differently. This has been implied in INQ 08-81. It is important to note, however, that negotiations with non-attorney personnel, or appearances before public boards regarding settlement of claims or lawsuits have not been included in this exemption. Therefore, in the event that you undertake such legal representation, you should be careful to avoid dealing with anyone other than attorneys on behalf of the City of Opa-locka in connection with such representation.

Additionally, if there are any issues related to possible conflicts you may have as an attorney in the Florida Bar, such conflicts are beyond the scope of this opinion and should be discussed with the Florida Bar.

In the event that you feel that there may be an appearance of impropriety caused by your involvement in litigation that would seriously threaten damage to the public trust in the City of Opa-locka, you should consider voluntarily declining involvement in such matters.

This opinion construes only the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, and does not construe any provisions of Chapter 112, Florida Statutes, which falls under the jurisdiction of the State of Florida Commission on Ethics.

Sincerely,

Joe Centorino

Joseph M. Centorino

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Subject: Opinion

Joe:

You can reach me at this email. Thanks.

Mike