

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, September 08, 2016 10:48 AM
To: Sanchez, Rodzandra (COE)
Subject: FW: Scott Stetson, Attorney, Multi State Associates (lobbying) INQ 16-210

[INQ 16-210 Stetson](#)

From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, September 08, 2016 10:48 AM
To: 'sstetson@multistate.com' <sstetson@multistate.com>
Cc: 'rgastesi@gastesi.com' <rgastesi@gastesi.com>; Centorino, Joseph (COE) <CENTORI@miamidade.gov>; Murawski, Michael P. (COE) <MURAWSK@miamidade.gov>; Perez, Martha D. (COE) <perezmd@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Subject: Scott Stetson, Attorney, Multi State Associates (lobbying) INQ 16-210

Dear Mr. Stetson:

It was pleasure to speak with you about the Miami-Dade County Lobbying Ordinance. As we discussed, the County Lobbying ordinance covers both the County and the municipalities located in Miami-Dade County. With regards to your inquiry about the legal authority for applying the Lobbying ordinance (2-11.1(s)) to municipalities in Miami-Dade County, I refer you to the following sections of the Miami-Dade County Ethics Code:

- Section 2-11.1(a) of the Miami-Dade lobbying ordinance specifies that the County Ethics Code applies to: “all County personnel as defined herein, and shall also constitute a minimum standard for all municipal officials and officers...” This section further states that: “References in the section to County personnel shall therefor be applicable to municipal personnel who serve in comparable capacities to the County personnel referred to.”
- Section 2-11.1(s)(1) states that : “all persons, firms, or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) ordinance, resolution, action or decision of the County Commission; (2) any action, decision, recommendation of the County Manager or any County board or committee; or (3) any action, decision or recommendation of County personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission, or a County board or committee. "Lobbyist" specifically includes the principal as well as any employee whose normal scope of employment includes lobbying activities.”
- Section 2-11.1(s)(10) requires: “All members of the County Commission, and all County personnel, shall be diligent to ascertain whether persons required to register pursuant to this subsection have complied. Commissioners or County personnel may not knowingly permit a person who is not registered pursuant this section to lobby the Commissioner, or the relevant committee, board or County personnel.”

Thus, under the Miami-Dade County Ethics Code, a Town or Miami-Lakes official or officer (including Council members) would be prohibited from permitting the appearance of an unregistered lobbyist seeking to encourage the passage, defeat or modification of any ordinance, resolution, action or decision of the Town of Miami Lakes Council; any action, decision or recommendation of the Town Manager or Town board; or any decision or recommendation of Town personnel that foreseeably will be heard or reviewed by the Town Council.

Please note that lobbyists who fail to register pursuant to the requirements of the under the Code may be subject to penalties provided under Section 2-11.1(cc) of the Miami-Dade County Ethics Code which states:

“(cc) Penalty. (1) Proceeding before Ethics Commission. A finding by the Ethics Commission that a person has violated this section shall subject said person to an admonition or public reprimand and/or a fine of five hundred dollars (\$500.00) for the first such violation and one thousand dollars (\$1,000.00) for each subsequent violation. Where the Ethics Commission finds that a person has intentionally violated this section and determines that a fine is appropriate, said person shall be subject to a fine of one thousand dollars (\$1,000.00) for the first such violation and two thousand dollars (\$2,000.00) for each subsequent violation. Actual costs incurred by the Ethics Commission, in an amount not to exceed five hundred dollars (\$500.00) per violation, may be assessed where the Ethics Commission has found an intentional violation of this section. The Ethics Commission may also order the person to pay restitution when the person or a third party has received a pecuniary benefit as a result of the person's governed by an administrative order adopted by the County Commission and rules of procedure promulgated by the Ethics Commission. (2) Prosecution by State Attorney in State court. Every person who is convicted of a violation of this section in State court shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment in the County Jail for not more than thirty (30) days, or by both such fine and imprisonment.”

With respect to the use of the term “Mayor” rather than “County Manager” in the Lobbying FAQ’s found in the Commission’s website, in 2007, the Miami-Dade voters approved a “strong Mayor” form of government abolishing the County Manager position. The Lobbying FAQ’s were written reflecting that change.

Best regards,

Gilma (Mimi) Diaz-Greco
Staff Attorney



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From: sstetson@multistate.com [<mailto:sstetson@multistate.com>]
Sent: Tuesday, September 06, 2016 3:42 PM
To: Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>
Subject: Lobbying FAQ Follow Up Question

Hi Glima,

Nice speaking with you earlier. I have reviewed the FAQs and I do have a question. What is the legal authority for applying Section 2-11.1(s) of the county code to municipalities? The definition of "lobbyist" does not reference municipalities.

(s)

Lobbying.

(1)

(a)

As used in this section, "County personnel" means those County officers and employees specified in [Section 2-11.1\(i\)\(2\)](#) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance.

(b)

As used in this section, "Lobbyist" means all persons, firms, or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) ordinance, resolution, action or decision of the County Commission; (2) any action, decision, recommendation of the County Manager or any County board or committee; or (3) any action, decision or recommendation of County personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission, or a County board or committee. "Lobbyist" specifically includes the principal as well as any employee whose normal scope of employment includes lobbying activities. The term "Lobbyist" specifically excludes the following persons: 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; expert witnesses who provide only scientific, technical or other specialized information or testimony in public meetings; any person who only appears as a representative of a neighborhood association without compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item; any person who only appears as a representative of a not-for-profit community based organization for the purpose of requesting a grant without special compensation or reimbursement for the appearance; and employees of a principal whose normal scope of employment does not include lobbying activities.

There is also a typo in the FAQ. Under who is considered a lobbyist, the FAQ lists "county mayor." The statute says county manager. Please advise. Thanks.

Scott Stetson

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