

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Tuesday, October 10, 2017 2:40 PM
To: Sanchez, Rodzandra (COE)
Subject: Joshua Heller, Esq., Shutts & Bowen LLP (Lobbyist Registration) INQ 17-240

FW: INQ 17-240 Heller

From: Centorino, Joseph (COE)
Sent: Tuesday, October 10, 2017 11:01 AM
To: 'jheller@shutts.com' <jheller@shutts.com>
Cc: Sanchez, Gerald (CAO) <Gerald.Sanchez@miamidade.gov>; Kirtley, Eddie (CAO) <Eddie.Kirtley@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>
Subject: INQ 17-140 Joshua Heller, Esq., Shutts & Bowen LLP (Lobbyist Registration)

Mr. Heller,

You have inquired whether, under Section 2-11.1(s) of the County Ethics Code, an expert retained by a client of your firm to provide expert, technical information in connection with a lobbying matter, would need to register as a lobbyist in the County. Section 2-11.1(s)(b) of the Code contains a number of specifically excluded persons from the definition of "lobbyist," which relieves such individuals of a responsibility to register as a lobbyist with the Clerk's office and to take the required lobbyist ethics training course that is provided by Ethics Commission staff. One of those exemptions applies to, "expert witnesses who provide only scientific, technical or other specialized information or testimony in **public meetings**" (emphasis added). Consequently, if the expert is only to provide technical information within the area of his or her expertise and will appear only at publicly-noticed meetings, such as County Commission or other County board or committee meetings that hold their sessions in accordance with the Sunshine Law, Section 286.011, Florida Statutes, then that individual will not be required to register as a lobbyist with the County Clerk. If that person is to appear separately at non-public meetings with elected officials or other County personnel on such matters, then that person should register as a lobbyist. I would caution also, that there is sometimes a fine line between being an expert witness or being an advocate. If the expert should openly advocate for a decision in favor of his or her client, apart from whatever technical information is imparted, then the expert may have crossed the line into lobbying. When experts stick to technical advice or merely answer questions posed by board members or staff at public meetings, they would generally be entitled to the exemption.

Sincerely,
Joe Centorino

Joseph M. Centorino

Executive Director and General Counsel
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