

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, February 02, 2017 9:23 AM
To: Sanchez, Rodzandra (COE)
Subject: FW: Robert Fernandez, Esq., Zumpano Castro LLC, (Two-Year Rule) INQ 17-30
Attachments: TwoYearRule.pdf

INQ 17-30 Fernandez

From: Perez, Martha D. (COE)
Sent: Thursday, February 02, 2017 9:21 AM
To: 'Robert.Fernandez@zumpanocastro.com' <Robert.Fernandez@zumpanocastro.com>
Cc: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Subject: Robert Fernandez, Esq., Zumpano Castro LLC, Two Year Rule, INQ 17-30

Dear Mr. Fernandez,

You inquire whether a former County employee who is under the County's Two-Year post-employment restriction ordinance may represent (lobby) County officials, personnel or employees on behalf of a non-profit 501 (c)(3) entity.

Background

The former County employee is within his/her two year period from leaving County public service. He/she wishes to lobby the County on behalf of a non-profit 501(c)(3) entity. The former employee will be providing his/her services to the entity *pro bono*. The non-profit entity is not an entity that the former County employee was involved with in his/her previous County employment.

Analysis

Although the County Ethics Code generally prohibits former County employees from lobbying the County for two years following their departure from County employment, this post-employment ban does not apply to former County personnel who subsequently become employed or retained by 501(c)(3) nonprofit organizations, governmental entities, or educational institutions. *See* the County Code at Sec. 2-11.1 (q); RQO 06-54; INQ 12-06; INQ 13-176. Consequently, a former County employee may represent a recognized tax-exempt 501(c)(3) nonprofit organization under the Internal Revenue Code.

Regarding whether the former employee would be required to register as a lobbyist pursuant to Section 2-11.1(s), such registration requirement would depend on the purpose of the representation. Unpaid representatives of non-profit community-based organizations who are only seeking grant funding and not lobbying on other matters at the same time, are not required to register as lobbyists. *See* Section 2-11.1(s)(1)(b); INQ 14-260. However, unpaid representatives lobbying on behalf of a non-profit organization are considered lobbyists and are therefore, required to register with the Clerk of the Board, would not have to pay the registration fee, but would have to take the County ethics training course and pay \$100 for the course fee. *See* Section 2-11.1(s)(4); INQ 13-167. Also, pursuant to Section 2-11.1(s)(6), if the lobbyist has expenditures to report, he/she must file an Annual Expenditure Report.

Be advised, however, that *all* former County employees are prohibited from *ever* disclosing confidential information garnered through their official positions with the County regardless of where they are employed/retained subsequently. *See* the County Code at Sec. 2-11.1 (h).

I am attaching the “Two Year Rule” guidelines for your information.

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

Best regards,

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

This email and any attachments are for the exclusive and confidential use of the intended recipient(s). If you are not an intended recipient, please do not read, distribute or take action in reliance upon this message. If you have received this in error, please notify me immediately by return email and promptly delete this message and its attachments from your computer. Miami-Dade County is a public entity subject to Florida’s public record laws. Any communication with this office, including e-mail messages, could be considered a public record subject to disclosure.

From: Robert Fernandez [<mailto:Robert.Fernandez@zumpanocastro.com>]
Sent: Monday, January 23, 2017 7:34 PM
To: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>
Subject: Informal Advisory Opinion
Importance: High

Joe,

Happy New Year! I hope you are doing well. I have a fact pattern that I wanted to run by you for an informal advisory opinion. I have a former Miami-Dade County employee who is still within his/her two-year cooling off period under **Section 2-11.1.(q)(1)** of the Conflict of Interest and Code of Ethics Ordinance. This person has inquired whether he/she could potentially lobby on behalf of a non-profit entity (assume a 501(c)(3)—if different I will advise) they are affiliated with on a pro bono basis. I do not believe this person would be officially employed (W-2 employee) by the non-profit entity and that is why it would be on a pro bono basis.

Based on the language of **Section 2-11.1.(q)(2)**, would this person’s lobbying activities before the County on behalf of the non-profit be covered as an exemption to the 2 year cooling off period?

I am happy to discuss same as well with you. Thank you in advance for your anticipated cooperation.

Best,

Robert



Robert H. Fernandez, Esq.
Partner
Zumpano Castro, LLC
500 South Dixie Highway, Suite 302
Coral Gables, Florida 33146
Phone: 305-503-2990
Facsimile: 305-774-5908
robert.fernandez@zumpanocastro.com



STATEMENT OF CONFIDENTIALITY AND PRIVILEGE

The information contained in this e-mail communication may be confidential and privileged. It is intended only for the use of the individual or entity identified. If you are not the intended recipient, please do not disseminate, distribute, or copy. Instead, please notify us at 305-503-2990 and immediately delete this message.